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REPORT

TO: Commission on Executive Reorganization
FROM: Commission Staff
SUBJECT: Natural Resources and Conservation

The attached report contains a summary of the organization and activities of the following agencies:

- State Fish and Game Commission
- Montana Water Resources Board
- State Soil Conservation Committee
- Montana Grass Conservation Commission
- Office of the State Forester
- Council on Natural Resources and Development
- Outdoor Recreation Advisory and Planning Committee
- Oil and Gas Conservation Commission
- Advisory Committee for Preservation of Historic Sites
- Bureau of Mines and Geology

Each of the above agencies has been sent a copy of their respective summary reviews which are incorporated in the "Present Organization" section of this report. The agencies have been asked to review the summaries for factual accuracy and completeness and return the same with any additions or corrections.

The staff emphasizes that the recommendations contained in this report are merely that. They represent the best judgment of the staff based upon the research that has been conducted.

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P R E S E N T O R G A N I Z A T I O N

STATE FISH AND GAME COMMISSION*

Organization

Historical Notes

The first wildlife conservation law in Montana was initiated by the first Territorial Legislature in 1864 (Laws of the Territory 1864 at 407). The law designated tackle consisting of a pole, line, and hook as the only lawful way that speckled mountain trout could be caught in any of the strams of the Territory. From 1864-1889, when the first Game Wardens were authorized (Laws of Montana 1889 at 157), the Legislature passed numerous laws protecting game birds and animals. The laws of 1889 empowered County Commissioners to hire one Warden for each county at a cost not to exceed \$150 a month. The first State Game Warden was appointed by the Governor in 1901. The Montana State Fish Commission comprised of the State Game Warden, and two members chosen by the Governor. The Commission's purpose was to construct fish hatcheries and distribute the fish produced throughout the state. In 1913, the Montana Game and Fish Commission composed of the State Game Warden and four members selected by the Governor was established (Laws of Montana 1921, Ch. 193, Sec. 2). The Commission was later designated as the State Fish and Game Commission (Laws of Montana 1921, Ch. 193, Sec. 2) and was granted the power to establish fish and game districts in the state and to close or open seasons on game animals, birds, fish, and fur bearing animals. This Section (Laws of Montana 1921, Ch. 193, Sec. 2) was amended in 1941 and constitutes the basic statutory authority for the present State Fish and Game Commission (Section 26-101, R.C.M. 1947).
General.

Five persons experienced in the subject of wildlife, fish and game, and the requirements for the conservation and protection of fish, game, game birds and animals are appointed for four year staggered terms to the Fish and Game Commission by the Governor with the advice and consent of the Senate. One commissioner is appointed from each of the following districts (District 1, Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Powell, Ravalli, Granite, and Lewis

*Although the Revised Codes of Montana make reference to the Fish and Game Department (Section 26-135 and Section 26-202.1, R.C.M. 1947) it appears that the Legislature has not specifically created a Fish and Game Department. Therefore, a certain amount of confusion exists as to the correct title of the administrative department under the direction of the Fish and Game Commissioners and the Director. Nonetheless, this report will refer to the Fish and Game Department, (the commonly used and accepted designation) as the administrative unit under the direction of the Fish and Game Commissioners.

and Clark Counties; District 2, Deer Lodge, Silver Bow, Beaverhead, Madison, Jefferson, Broadwater, Gallatin, Park and Sweetgrass Counties; District 3, Glacier, Toole, Liberty, Hill, Pondera, Teton, Choteau, Cascade, Judith Basin, Fergus, Blaine, Meagher and Wheatland Counties; District 4, Phillips, Valley, Daniels, Sheridan, Roosevelt, Petroleum, Garfield, McCone, Richland, Dawson, and Wilboux Counties; District 5, Golden Valley, Musselshell, Stillwater, Carbon, Yellowstone, Big Horn, Treasure, Rosebud, Custer, Powder River, Carter, Fallon, and Prairie Counties). Commissioner may be removed for inefficiency, neglect of duty, misconduct in office, or cause by the Governor (Section 26-102, R.C.M. 1947). The Commission must annually meet and elect a Chairman and must hold quarterly meetings. (The Commission presently meets monthly or bimonthly). A majority of the Commission constitutes a quorum for the transaction of business. (Section 26-103, R.C.M. 1947). Commissioners receive \$20 per diem for each day they are in actual attendance at Commission meetings or are executing their duties as Commission members, but no Commissioner other than the Chairman may receive over \$1,500 as per diem in any year and the Chairman may not receive over \$2,000 in any year for per diem. Commissioners are also allowed actual and necessary traveling expenses (Section 26-105, R.C.M. 1947).

The Commission appoints a person having experience, skill, and special training in wildlife protection, conversation, and management as the State Fish and Game Director. The Director serves as the Commission's Secretary and is the administrative officer for the Commission (Section 26-106, R.C.M. 1947).

The principal office of the Department is located in the Sam Mitchell Building in Helena, Montana. District headquarters offices are located at Kalispell, Missoula, Bozeman, Great Falls, Billings, Glasgow, and Miles City. The research section and laboratory are located in the Fish and Game building on the campus of Montana State University, Bozeman, Montana. The Lewis and Clark Caverns office is located at Whitehall. The Fish and Game warehouse, film center, and shop are located northwest of Helena. The Fish and Game Shop is located in Kalispell, and state fish hatcheries are located at Anaconda, Arlee, Big Timber, Bridger, Great Falls, Lewistown, Libby and Somers.

For administrative purposes, the state is divided into seven (7) supervisory districts with headquarters in Kalispell (District 1); Missoula (District 2); Bozeman (District 3); Great Falls (District 4); Billings (District 5); Glasgow (District 6); and Miles City (District 7).

Each district supervisor has day-to-day supervision of all persons assigned to his district and is responsible to the Department Director or, in his absence, the Deputy Director.

Division Chiefs compose the Director's staff. The staff plans, coordinates, and budgets for various activities of the Department under

direct supervision of the Director. District supervisory personnel see that programs planned by the staff and approved by the Director are carried out.

Presently, the Department is responsible for seven administratively created programs: Recreation and Parks, Environmental Resources, Game Management, Law Enforcement, Administration, Information and Education, and Fisheries.

An organizational chart of the Fish and Game Department is set forth on the following page.

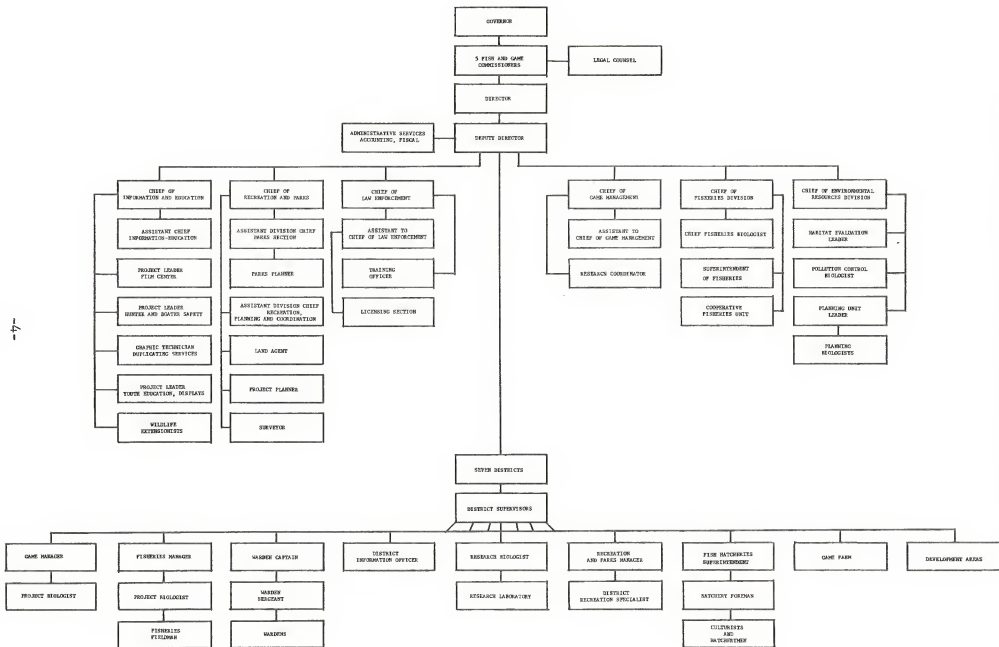
The Fish and Game Department utilizes the legal services of a private attorney and the Attorney General's office. The private attorney is employed on a retainer basis and processes the bulk of legal matters for the Department. For example, he collects delinquent assessment payments for leases on water and land; reviews abstracts of title; and drafts legal documents. He also represents the Commission in Court when it is defending or instigating suits. Approximately 10 of these cases occur each year.

The Attorney General's office aids the Department by providing legal opinions on various matters (Section 26-126, R.C.M. 1947) and assisting in preparing a compilation of fish and game laws after each legislative session.

Commission Activities.

General Powers and Duties. Section 26-104, R.C.M. 1947, contains the general powers and duties of the Commission, except for subsection (9) - - which makes it the duty of the Commission to furnish plans for and to direct and compel the construction and installation and repair of fish ladders upon dams and other obstructions in streams - - the section is a listing of powers, which are as follows:

1. To exercise supervision over all the wildlife, fish, game and nongame birds, waterfowl and game and furbearing animals of the state and to do everything necessary to fulfill the duties prescribed by law with respect thereto.
2. To enforce all the laws of the state respecting the protection, preservation, and propagation of fish, game, fur bearing animals, game and nongame birds within the state.
3. To expend all funds of the state collected or acquired for the protection, preservation, and propagation of all fish and game in Montana.
4. To discharge any Commission appointee or employee for cause at any time.



5. To dispose of all property owned by the state of Montana used for the protection, propagation, and preservation of fish and game, and furbearing animals and game and nongame birds that is formed to be of no further value or use to the state.
6. To use as much of the state Fish and Game funds as may be necessary for the construction, maintenance and operation of fish hatcheries, game farms, or other property or means and appliances for the protection and propagation of fish, game and furbearing animals or game or nongame birds in the state and to use these funds for the extermination of predatory animals that destroy fish, game furbearing animals, game or nongame birds.
7. To provide for the importation of game birds, game and furbearing animals, and for the protection, propagation and distribution of these birds and animals.
8. To spend as much of the Fish and Game funds as necessary to introduce and propagate wild waterfowl food; and for that purpose to secure expert advice as to what kinds of waterfowl foods are adapted to the climate, soil and waters of the state.
9. To purchase and maintain suitable fish screens or fish wheels, or other devices.
10. To spend money from the Fish and Game fund to construct and maintain nurseries and rearing ponds where fry can be planted, propagated and reared.
11. To acquire by gift, purchase, capture, or otherside, any fish game, game birds or animal for propagation, experimental scientific purposes.
12. To acquire lands and waters and develop and maintain them for the following purposes: (a) for fish hatcheries, nursery ponds, or game ponds; (b) to restore, propagate and protect fish, game, birds or furbearing animals; (c) to provide areas where the public may hunt, trap, or fish; (d) to extend and consolidate by exchange lands or waters suitable for the above purposes; (e) to capture, propagate, transport, buy, sell, or exchange any species of game, fish, or animals needed for propagation or stocking purposes, and to exercise control of undesirable species and to dispose of lands and waters at public sales.
13. To enter into agreements with educational institutions and state, federal or other agencies to promote wildlife research and to train men for wildlife management and to enter into agreements with federal agencies, municipalities, corporations, organized groups of landowners, associations and individuals for the development of fish, game, bird or furbearing animal management and demonstration projects.

14. To determine the lengths of the various hunting seasons, determine the limits of various types of animals allowed to be killed by each hunter, and to determine which areas specific types of weapons are to be used in the various hunting areas.

15. To establish refuge areas for fish and game on public lands, and on private lands with the consent of the owner.

16. To divide the state into Fish and Game districts and to create fish, game, or furbearing animal districts throughout the state and to declare closed seasons for hunting, fishing or trapping in any of the districts and to later re-open the districts.

17. To declare a closed season on any species of fish, game, game birds or furbearing animals threatened with undue depletion from any cause, and to close any area of public land or public water to hunting, trapping or fishing, for limited periods of time, when such action is necessary to protect recently stocked areas, districts, waters, spawning waters or to prevent depletion of fish, game, furbearing animals, and game and nongame birds.

18. To establish refuges to provide safe sanctuaries in which game and furbearing animals or game or nongame birds may breed and replenish.

19. To designate and protect certain areas as resting, feeding, and breeding grounds for migratory birds, in which hunting and molestation shall be forbidden.

20. To establish and maintain an educational and biological department.

21. To issue permits to carry firearms to regularly appointed officers and/or Fish and Game Wardens.

22. To declare certain fishing waters solely for the use of juveniles age 12 or under.

23. To promulgate and enforce rules and regulations governing uses of land acquired, or held under easement by the Commission, or lands which it operates under agreement with or in conjunction with a federal or state agency or private owner.

24. To promulgate and enforce rules and regulations governing recreational uses of public fishing reservoirs and lakes constructed by the Commission or in reservoirs and lakes which it operates under agreement with or in conjunction with a federal or state agency or private owner.

Program Supervision and Control

The Commission member's involvement in the Department's Programs is summarized in the following paragraphs:

Administrative Program. The Commission approves budgetary requests, personnel changes, supply requisitions, educational leaves, travel payments, and most administrative details for all Department Divisions and programs.

Game Management Program. The Commission sets regulations for big game animals (deer, elk, moose, sheep, goats, and antelope) and all birds, both exotic and native. These regulations include opening and closing dates, bag and possession limits, quotas, and open and closed areas.

The Commission authorizes the taking of options for purchase of big game winter range areas, waterfowl development areas, and other lands used for the propagation and protection of game animals and birds and authorizes the expenditure of Fish and Game funds for final payment of these lands.

The Commission reviews and approves all federal aid game management projects including administrative details such as specific equipment, supply requisitions, and job positions and transfers of personnel.

The Commission approves and executes all game management land leases (agricultural leases) and in certain instances has personally negotiated with private individuals. The Commission has also set regulations for land use on lands owned or controlled by the Commission.

The Commission approves all development of game ranges, waterfowl areas, and other lands controlled by the Game Management Division. Commission approval in certain instances is as specific as a dike, a set of hand tools, equipment, a road to be graded, or a fencing project. The Commission also approves the destruction or disposal of equipment.

The Commission approves all game management agreements with other state and federal agencies such as the Gallatin Elk Management Agreement with the U. S. Forest Service and the Predator Control Agreement with the U. S. Bureau of Sport Fisheries and Wildlife.

The Commission also approves the introduction and planting of any exotic game animals and game birds.

Law Enforcement Program. The Commission sets regulations on shooting hours, means of taking, and other general hunting, trapping, and fishing regulations for all game, birds, waterfowl, fish, and furbearing animals in the state.

The Commission prescribed rules and regulations for warden qualifications and warden examinations and issues warden certificates. It also has reviewed warden conduct and has occasionally issued reprimands.

The Commission approves relief from financial responsibility for license dealers for lost or stolen licenses. All other license problems are presented to the Commission and it approves the format of the licenses and licensing procedures.

The Commission has issued regulations for outfitter qualifications and reviews the Director's actions in revoking outfitters licenses.

Fisheries Program. The Commission sets regulations for fishing in all state waters. These regulations include opening and closing dates, possession limits, types of fish which may be taken, and open and closed areas.

The Commission approves all cooperative agreements involving fish and their propagation and protection with other state and federal agencies.

The Commission has approved the planting of fish in Montana waters but this procedure is now accomplished by the Commissions Fisheries personnel.

The Commission has approved the water quality standards provided by the Montana Water Pollution Control Council and has given the Director directives relating to his membership on the Council.

The Commission reviews and approves all federal aid fisheries projects including administrative details such as specific equipment, supply requisitions and job positions and transfers of personnel, and approves rehabilitation projects for lakes.

The Commission approves the disposal of surplus fish eggs to other states and certifies the addition of various fish diseases to the fisheries protection statutes (Sections 26-1701 to 26-1705, R.C.M. 1947).

The Commission frequently accepts lands and property as gifts and disposes of the same.

Information and Education Program. The Commission approves expenditures for advertising, purchase of materials and supplies, suggested publication changes, and plans for major projects and films.

Environmental Resources Program. The Commission sets policy for this program and provides specific recommendations for Commission involvement in pollution issues.

Recreation and Parks Program. The Commission approves each development plan for fishing access sites, state parks, historical monuments, and recreation areas and becomes involved in the specific details of the development.

The Commission approves all taking and exercising of options, and purchases of land and waters and sets regulations for state parks and other recreation areas.

The Commission approves each Bureau of Outdoor Recreation project completed under the Land and Water Conservation Fund Act of 1965 (78 Stat. 897 [1964]) within the guidelines established by the Bureau of Outdoor Recreation.

A more specific treatment of the Commission's quasi - legislative and quasi - judicial activity is set forth below:

1. Quasi - Legislative

The Commission annually establishes the following fish and game regulations:

Fishing Regulations and Map. (Section 26-104 (1), (15), (16), (17), (18), (24), R.C.M. 1947). These regulations divide the state into seven fishing districts and provide legal descriptions of each district. The regulations prescribe the fishing hours; define game fish; provide general daily limits and possession limits; means of taking; designate closed and open waters, Indian reservations and wildlife refuges, and juvenile fishing areas; and season durations.

Antelope, Moose, Mountain Goat and Big Horn Sheep Hunting Regulations and Map. (Sections 26-104, 26-202, 26-202.4, R.C.M. 1947). These regulations include legal descriptions of the areas open to hunting, quotas for each area, hunting hours, caliber and other hunting restrictions, and an explanation of procedures necessary for application for special permits.

Deer, Elk, and Bear Hunting Regulations and Map. (Section 26-104, (1), (2), (7), (15), (16), (18), (19), R.C.M. 1947). These regulations include a map and legal description of game hunting districts, regulations concerning hunting hours, calibers, closed areas, game tags, game limits, seasons, open and closed areas for each species, and general hunting regulations.

Upland Game Bird Regulations and Map. (Section 26-104, (1), (2), (15), (16), (17), (18), R.C.M. 1947). The regulations include

a map of the areas of the state open for hunting of upland game birds, season dates, possession and daily bag limits, hunting hours, means of taking, and general hunting regulations.

Waterfowl Regulations. (Sections 26-104, (1), (2), (15), (16), (17), (20), and 26-320, R.C.M. 1947). The regulation divides that state into two Flyways (Pacific and Central) and establishes open season dates, bag limits, waterfowl closures, means of taking, and license requirements for both areas.

Furbearing Animal Regulations. (Section 26-104, (1), (2), (7), (15), (16), (17), (18), (19), and Section 26-321, R.C.M. 1947). These regulations prescribe the means of taking (trapping), seasons, animals subject to taking, and possession limits.

To understand the Commission's actual participation in establishing annual regulations a brief summary of the process utilized in determining annual regulations is necessary. Local game and fish managers and biologists conduct management surveys of fish, game, game birds, and furbearing animals throughout the state. These investigations include a survey of the game, game bird, fish and furbearing animals populations, habitat conditions and other relevant factors. District managers analyze these surveys and prepare formal regulation recommendations for the game, game birds, furbearing animals, or fish in question and transmit them to the Helena office. The recommendations are then consolidated into a state wide system of regulations and are presented to the Fish and Game Commission at its next meeting. The Commission reviews the regulations, adopts the changes it desires and tentatively adopts the regulations. After the regulations have been given tentative approval by the Commission, they are explained to sportsmen, stockmen, personnel of other states and federal agencies, landowners, and other interested persons and are given widespread distribution and publicity. At a subsequent Commission meeting, the Commission again considers the regulation in the light of expressed public opinion (personal contact with Commissioners, correspondence, and persons attending Commission meetings). In certain instances, public support has been secured for the regulations and the Commission may modify the regulations. The Director has indicated that the Commission has modified proposed staff regulations on season opening and closing dates: quota limits on mountain goats, big horn sheep, antelope, and elk; bag and possession limits on game birds and waterfowl; and fish limits on numerous occasions. For example, in setting the 1970 quota limits on elk in the 20 elk quota areas in the state, the Commission modified 7 of the 20 quotas proposed by the Department's staff. The Director has indicated that this action is the representative of Commission modification of Department annual regulations.

The Commission has also established permanent regulations for public use of recreation areas (Sections 62-301, 26-104 (25), (26), 26-344, 62-306, 62-314, R.C.M. 1947); specific regulations on certain

lakes, reservoirs, and game ranges; roadside zoos or menageries (Section 26-1207, R.C.M. 1947); migratory game bird permits (Section 26-1201, R.C.M. 1947); outfitters qualifications (Sections 26-901, 26-902, 26-904, 26-905, and 26-906, R.C.M. 1947); motorboat and vessel equipment (Section 69-3505, R.C.M. 1947); sale of surplus property (Sections 26-104, (5), 26-128, 26-129, R.C.M. 1947); warden employment (Section 26-104, 26-107, 26-108, 26-110, 26-111, 26-128, 26-129, R.C.M. 1947); and outdoor recreation project regulations (Section 62-402, R.C.M. 1947). Except for regulations designed to incorporate federal regulations (migratory game bird permit regulations, motorboat vessel and equipment regulations, and outdoor recreation project regulations) all permanent regulations were submitted to sportsmen and interested citizens before passage by the Commission. The Director has indicated the the Commission was responsive to public suggestions and did modify staff regulation in several instances.

2. Quasi - Judicial

The Commission is responsible for conducting hearings when the Director has refused to issue an applicant or outfitters license (Section 26-901, R.C.M. 1947); to set aside an area as a game refuge or haven (Section 26-104, (21), R.C.M. 1947); and when the Director has suspended, reduced in rank, or discharged an employee employed by the Commission for more than one year (Section 26-108, R.C.M. 1947). The Commission has held two hearings regarding outfitters licenses in the past three years and overturned the Director's decision in both instances; held 1 hearing to set aside an area as a game or bird refuge in the past 2 years; and has not conducted any hearings regarding the Director's personnel actions.

In summary, Department personnel inform the Commission of Department activities and program developments, particularly those relating to proposed annual hunting, fishing, and furbearing animal regulations; permanent regulations; land and water purchase options, leases, and contracts; land or water developments and improvements; agreements with other state or federal agencies for fish or game management, development, or protection; pollution control; and information dissemination. The Commissioners, as mentioned previously, represent five geographical areas of the state. The members view their roles almost as elected representatives with defined constituents. The Commissioners indicate that they sound out the "constituents" in their areas concerning needed, requested, or proposed Department actions and relate these views to the Department and other Commissioners at the next Commission meeting. These views may be developed into departmental action. The Commissioners review all Department activities (particularly those relating to their districts) and are most active in reviewing proposed annual regulations concerning fish, game, birds, and furbearing animals and permanent regulations. The Commissioners and the Department Director have estimated that the Commission spends 70 per cent of

its time reviewing Department programs and activities and approving administrative matters and 30 per cent reviewing and revising annual and permanent regulations.*

Funding and Personnel

Expenditures of the Fish and Game Commission in the 1967-69 biennium totaled \$ 9,504,353. This compares with the appropriation for the current biennium of \$ 13,501,584. Of the 1969-71 biennium appropriation \$ 302,500 was from the General Fund; \$ 7,653,394 from the Earmarked Revenue Fund, Fish and Game Account No. 213100; \$ 383,750 from the Earmarked Revenue Fund, State Parks Account No. 220500; \$ 3,573,675 from the Federal and Private Revenue Fund, Fish and Game Account No. 410522; \$ 1,005,465 from the Federal and Private Revenue Fund, State Parks Account No. 418600; \$ 200,000 from the Federal and Private Revenue Fund, Construction Grant Account No. 409600; \$ 24,000 from the Clark Canyon - Canyon Ferry Lease Revenue Account; and \$ 358,800 from the Long Range Building Program Account and the Insurance Clearance Fund No. 602300. A large portion of the appropriation to the Commission is for capital construction projects - - \$ 2,822,900 in the 1969-71 biennium.

The two tables below indicate operating and capital expenditures of the Commission for the current biennium, by object and program. (Fiscal year 1971 figures are estimates).

OPERATING EXPENDITURES, FISH AND GAME COMMISSION

1969-71 BIENNIUM, BY PROGRAM AND OBJECT

	<u>Fiscal Year 1970</u>	<u>Fiscal Year 1971</u>
Object: Personal Services	\$ 3,043,247	\$ 3,149,927
Operation	1,544,255	1,787,539
Capital	382,097	265,552
Grants and benefits	<u>21,631</u>	<u>187,986</u>
Totals	4,991,230	5,391,004
Program: Administration	551,283	760,093
Environmental Resources	46,878	144,025
Information and Education	390,551	387,216
Fisheries	1,081,107	1,086,103
Law Enforcement	1,152,181	1,176,983
Game Management	1,072,588	1,145,655
Recreation and Parks	<u>696,642</u>	<u>690,929</u>
Totals	\$ 4,991,230	\$ 5,391,004
Biennial Total		<u>\$ 10,382,234</u>

*Information concerning Commission members activities was obtained from conversations with three Commission members including the Chairman and the Department Director.

CAPITAL CONSTRUCTION EXPENDITURES, FISH AND GAME COMMISSION,

1969-71 BIENNIIUM, BY PROGRAM

	<u>Fiscal Year 1970 (actual)</u>	<u>Fiscal Year 1971 (estimated)</u>
Administration	\$ 261,292	\$ 103,598
Fisheries	88,383	28,607
Information & Education	20,167	15,083
Law Enforcement	25,869	38,656
Game Management	834,910	39,658
Recreation & Parks	447,717	35,298
Environmental Resources	<u>3,998</u>	<u>3,950</u>
Total	\$1,682,336*	\$ 264,850*
Biennial Total	<u>\$ 1,947,186</u>	

The sources of income for the various accounts are as follows:

1. For the Earmarked Revenue Fund, Fish and Game Account No. 213100, income is derived from fees charged for all hunting and fishing licenses and permits, and fines charged for violations of any fish and game laws.
2. For the Earmarked Revenue Fund, State Parks Account No. 220500, income is derived from six-tenths of one per cent of all monies received in payments of the gasoline dealers license tax.
3. For the Federal and Private Revenue Fund, Fish and Game Account No. 410522, income is derived from federal grants for fish restoration and management and wildlife restoration projects
4. For the Federal and Private Revenue Fund, State Parks Account No. 418600, income is derived from receipts from cabin site rentals and federal grants from the Bureau of Outdoor Recreation.
5. For the Federal and Private Revenue Fund, Construction Grant Account No. 409600, income is derived from federal grants for state parks construction
6. For the Clark Canyon-Canyon Ferry Lease Revenue Account (now called the State Parks Miscellaneous Account No. 220400), income is derived from cabin rentals and leasing the Clark Canyon-Canyon Ferry area.

*The actual expenditures for fiscal year 1970 by program include the four categories of equipment, livestock, land and buildings. The estimated expenditures for fiscal year 1971 include only equipment and livestock estimates as no estimates have been compiled for land or building expenses.

7. For the Federal and Private Revenue Fund, Long Range Construction Account No. 410530, income is derived from the federal share of the cost of projects under the Long Range Building Program.

8. For the Insurance Clearance Fund, Fish and Game Account No. 602300, the revenue is derived from the insurance claims for fire losses at the animal shelter in Helena and the Sun River Log Cabin.

The total number of Fish and Game Commission employees on August 1, 1970 was 488. The following table indicates the numbers of permanent, temporary, and probational employees by division on that date.

PERSONNEL, FISH AND GAME COMMISSION

(by Division)
AUGUST, 1970

	ADMIN.	I&E	FISH.	ENF.	GAME MGMT.	REC. & PARKS	ENV.RES.	TOTAL
Permanent Employees	38	20	50	74	42	21	4	249
Probational Employees	2	2	6	6	6	5	1	28
Temporary Monthly	8	7	3	22	20	55	2	117
Temporary Hourly & Daily	5	7	14	9	21	36	2	94
TOTALS	53	36	73	111	89	117	9	488

The number of employees by division and position is as follows:

ADMINISTRATIVE DIVISION

<u>Position</u>	<u>Number</u>
Director	1
Deputy Director	1
Commission Secretary	1
Director's Secretary	1
Deputy Director's Secretary	1
Chief Pilot	1
Special Services Coordinator	1
Chief Accountant	1
Accountant	1
Payroll Clerk	1
Administrative Services Officer	1
Claims Examiner	1
Cashier	1
Property Officer	1
Shop Foreman	1
Mechanic Foreman	1
Warehousemen	2
Clerks	6

FISHERIES DIVISION

<u>Position</u>	<u>Number</u>
Chief	1
Superintendent of Fisheries	1
Chief Fish Biologist	1
District Fisheries Managers	7
Hatchery Superintendents	7
Project Biologists	13
Fish Culturists	8
Fisheries Fieldmen	3
Hatcherymen	4
Foremen	7
Fish Laborer	1
Division Secretary	1
Clerk-Stenographer	1

GAME MANAGEMENT DIVISION

Chief	1
Assistant Chiefs	2
District Game Managers	7
Game Research Biologists	7
Game Management Biologists	17
Game Farm Foremen	2
Game Farm Superintendent	1
Game Range Managers	5
Game Fieldmen	3
Division Secretary	1
Clerk-Stenographers	2
Game Research Biologists	7

RECREATION AND PARKS DIVISION

Chief	1
Assistant Chiefs	2
District Recreation Specialist	1
District Recreation Parks Managers	2
Land Agent	1
Recreation Planner	1
Parks Planner	1
Assistant Parks Planner	1
Area Superintendent of Parks	1
Secretary of Parks	1
Construction Foremen	3
Crew Foremen	2
Maintenancemen	2
Surveyor	1
Section Leader	1
Manager of Lewis & Clark Caverns	1
Division Secretary	1
Accountant	1
Clerk-Stenographers	3

ENFORCEMENT DIVISION

Chief	1
Assistant Chief	1
Training Officer	1
Division Secretary	1
Section Head	1
Clerk-Stenographers	5
Warden Captains	7
Warden Sergeants	4
Fish and Game Wardens	58

ENVIRONMENTAL RESOURCES DIVISION

Chief	1
Pollution Control Biologists	2
Environmental Planning Biologist	1
Environmental Planning Ecologist	1
State Project Leader	1
Clerk-Stenographer	1

INFORMATION AND EDUCATION DIVISION

Chief	1
Assistant Chief	1
District Information Officers	9
District Secretaries	7
Clerk-Stenographers	5
Division Secretary	1
Photographic Technician	1
Education Assistant	1
Editorial Assistant	1
Graph-Reproduction Foreman	1
Project Leader-Hunter Safety	1
Project Leader-Film Center	1
Secretary-Film Center	1

Administration

General. The purpose of the Administration program is to provide the Commission divisions and programs with overall guidance, and to provide personnel administration, equipment management, accounting procedures, and general office services. The Director of the Fish and Game Department is the "administrative agent" of the Commission (Section 26-106, R.C.M. 1947). The Director's staff is composed of the Deputy Director, six division chiefs (Information and Education; Recreation and Parks; Game Management; Fisheries; Law Enforcement; and Environmental Resources) and, for administrative purposes, seven district supervisors (districts are in Kalispell, Missoula, Bozeman, Great Falls, Billings, Glasgow, and Miles City). The Deputy Director is responsible for budgetary and accounting functions (Section 26-107, R.C.M. 1947).

Description. The Director is primarily responsible for overall guidance of all Commission programs and divisions, and approximately 90 per cent of the Director's time is spent advising and consulting his district supervisors and division chiefs on Commission programs. The Director consults with the division chiefs and district supervisors on specific program objectives and problems. Although the Director has not held formal staff meetings, he estimates that meetings are conducted with division chiefs at least once a week on various matters.

In addition to program coordination, the Director is statutorily responsible for personnel administration (Section 26-106, R.C.M. 1947); commission property (Section 26-106, R.C.M. 1947); acting as secretary for the Commission (Section 26-106, R.C.M. 1947); suspension of employees (Section 26-108, R.C.M. 1947); appointment of ex-officio game wardens (Section 26-114, R.C.M. 1947); supervision over all fish hatcheries and appointment of the Superintendent of Fisheries (Section 26-115, R.C.M. 1947); approving the Superintendent of Fisheries control of fish hatcheries (Section 26-117, R.C.M. 1947); expenses of Fish and Game wardens (Section 26-123, R.C.M. 1947); reports to the Commission on operation of divisions (Section 26-124, R.C.M. 1947); compilations of laws relating to fish and game (Section 125, R.C.M. 1947); preparing and transmitting vouchers to the treasurer of each county (Section 26-133 R.C.M. 1947); appointing license agents to sell state hunting and fishing licenses (Section 26-220, R.C.M. 1947); fixing amounts of bonds for license agents (Section 26-221, R.C.M. 1947); removing license agents for non-compliance with Commission rules (Section 26-223, R.C.M. 1947); giving written permission to organizations to run field trials (Section 26-301, R.C.M. 1947); accepting applications for pond licenses (Section 26-306, R.C.M. 1947); accepting reports from private pond owners (Section 26-306, R.C.M. 1947); issuing permits to landowners to kill or trap animals damaging property (Section 26-321, R.C.M. 1947); directing game wardens to issue shipping permits to export martin (Section 26-321, R.C.M. 1947); keeping records of all seining licenses--licenses for the use of a net for the taking of fish (Section 26-333, R.C.M. 1947); issuing permits for hunting, purchasing, selling shipping and transport of wild birds other than game birds (Section 26-501, R.C.M. 1947); making records of all confiscated property (Section 26-509, R.C.M. 1947); investigating outfitters qualifications (Section 26-901, R.C.M. 1947); issuing taxidermist licenses (Section 26-907, R.C.M. 1947); collecting fines,

bonds, and penalties (Section 26-1001, R.C.M. 1947); issuing permits for persons wishing to conduct scientific investigations (Section 26-1008, R.C.M. 1947); issuing permits to capture birds for propagation or scientific purposes (Section 26-1101, R.C.M. 1947); issuing permits to persons desiring to propagate, own, control game animals, game birds or fur bearing animals (Section 26-1201, R.C.M. 1947); prescribing forms and accepting applications for roadside zoos (Section 26-1207, R.C.M. 1947); receiving applications for permits to capture animals for roadside zoos (Section 26-1208, R.C.M. 1947); revoking menagerie permits and redeeming possession of all wildlife if the menagerie is not operated in accordance with Commission regulations (Section 26-1210, R.C.M. 1947); disposing of any animal kept in violation of fish and game laws (Section 26-1211, R.C.M. 1947); issuing fur dealers' licenses (Section 26-1303, R.C.M. 1947); ordering inspection of hatcheries of origin (conducted annually or at such times as the Director may order of salmonoid fish or eggs (Section 26-1701, R.C.M. 1947); supervision of the necessary personnel to comply with provisions of the Motor Board Regulation Act (Section 69-3517, R.C.M. 1947).

A majority of the enumerated functions are performed by division personnel and referred to the Director for his recommendations and approval. These functions consume approximately 10 per cent of the Director's time.

Funding and Personnel. Program expenditures including capital construction expenditures for fiscal year 1970 were \$812,757. The Commission employs a Director, a Deputy Director and 22 other employees in the program.

Environmental Resources

General. The Environmental Resources Division was created by official action of the Fish and Game Commission in August, 1969. The minutes of the August meeting indicate that the Division is to be concerned with the environmental aspects of the fish and wildlife program. The minutes state "this Division would assume the authority for special planning projects such as the Smith River, pollution, the administration of the stream preservation law, review of water projects within the state, pesticides, and other environmental problems as they arise."

Description. Prior to the creation of the Environmental Resources Division there had been a Water Resources Development Section of the Fisheries Division. This section was designed primarily to gather data on water resources development projects in the state and evaluate their effect on fish and wildlife; and enforce and administer the Stream Preservation Act of 1963. This Act was initially enacted for two years, was passed again in 1965 and codified as Title 26, Chapter 15, R.C.M. 1947. The act was established primarily to ensure that streams and their banks and tributaries are protected and preserved.

In 1969, it became apparent that water resource development was no longer a number one priority. Emphasis of public and private programs was placed to a more significant degree on general maintenance of a quality environment. Consequently a new Division--the Environmental Resources Division--was created and assumed those duties mentioned previously--water resources development and stream preservation--plus pollution control, mine-land, forest-land and range-land planning. These duties are directed toward the principal goal of the protection and enhancement of the habitat that produces fish and game.

The Division is responsible for the enforcement of the Stream Preservation Act. This act provides that

...an agency of state government, county, municipality, or other subdivision of the state of Montana, hereafter called applicant, shall not construct, modify, operate, maintain, or fail to maintain, any construction project or hydraulic project which may or will obstruct, damage, diminish, destroy, change, modify, or vary the natural existing shape and form of any stream or its banks or tributaries by any type or form of construction without first causing notice of such planned construction to be served upon the Montana Fish and Game Commission, on forms furnished by the Fish and Game Commission as soon as preliminary plans are completed, but not less than sixty (60) days prior to commencement of final plans for construction. Such notice shall include detailed plans and specifications of so much of said project as may or will affect in any manner specified above any such stream.

The act also provides for formal arbitration of disputes when the Fish and Game personnel cannot agree with the agency in charge of the construction project.* According to the Division Chief, the appointment of an arbitration board has never been necessary. The Division has, however, appeared in district court in cooperation with the Highway Department in order to procure extra right-of-way for purposes of preserving streams.

The impact of this act is seen principally in highway construction. Instead of building a highway through the least expensive route possible (as was done previously), extra expense is now incurred by the constructor of the road (Highway Department or cities and counties) in order to prevent damage to streams. The Environmental Resources Division works closely with the Highway Department and local agencies throughout the various planning stages of each construction project. Plans are adjusted when advisable and the Division aids the Department in implementing procedures to adjust and alter streams with as little damage to the fish and wildlife as possible.

A report of the Environmental Resources Division for fiscal year 1970 indicates that of the 65 legal notices of projects affecting habitat received from the Highway Department and three counties, 20 were judged detrimental and corrective measures were requested on these projects. Measures requested to mitigate damage to fish habitat included: (1) constructing bridges across streams to avoid channel changes; (2) constructing artificial meanders to replace those cut off; (3) replacing streambank and floodplain vegetation removed to facilitate construction; (4) constructing parking areas for fishermen; (5) placing additional riprap on bridge abutments and dikes to permanently protect other areas from unnecessary damage. All requests were acted upon; arbitration was not necessary.

The Division Chief has indicated that the need for enforcement of the Stream Preservation Act is reduced as the agencies involved in construction projects become familiar with proper construction methods and controls which prevent stream damage and include these methods in the original plans.

The Division submits reports of the activity under the Stream Preservation Act to the Commission for review. Highway Department personnel sometimes attend the meetings to explain projects and plans.

Federal agencies, particularly the Bureau of Public Roads, the Forest Service, and the Corps of Engineers, often undertake construction projects which affect a stream or lake. These agencies have agreed to work with the

*Section 26-1505 (2), R.C.M. 1947 provides that if agreement cannot be reached and if the Fish and Game Commission wants the disagreement arbitrated, the Commission shall notify the other agency or agencies and ... "Notify, in writing, all district judges of the judicial district or districts in which the project is located that an arbitration board is needed. Within five (5) days of receipt of notification, such judges shall appoint three (3) people from the county or counties in which the project is located to an arbitration committee." The Committee must meet, within 10 days, hear testimony from all agencies involved and issue a decision. The decision shall be binding on all parties concerned and their expenses divided equally between the agencies involved.

Fish and Game personnel as if they were under the same law as the state agencies. The Stream preservation Act makes no mention of federal agencies. The personnel of the Division work with the federal agencies through all phases of planning on each project.

The Division also works with and advises all agencies and private concerns which do any natural resource development in the state. The Division attempts to protect the fish and wildlife habitat by assisting developers with their planning and operation. For example, the mining development anticipated in Lincoln resulted in a co-operative agreement between the mining company and the Commission which provided for the 50-50 sponsorship of a planning ecologist to be located in the Lincoln area for one year to gather all data required to adequately plan for the protection of the fish and wildlife while the mining operation was going on. The agreement also provided for Fish and Game Commission control over all land near Alice Creek not necessary for mining and a Commission Management Option on any reservoir which might be created in the area. This was the first such cooperative agreement initiated by the Division. The Division Chief has indicated that the Division will work for other such agreements with future developers. He has also indicated that this sort of agreement is satisfactory to industry and also to the persons who are concerned with the quality of the environment.

The Division has done work in the area of pollution control. In the fall of 1969, high levels of Mercury were found in pheasants in Alberta. The Division monitored the results of tests in Alberta and also submitted Montana pheasants for analysis to a laboratory in Wisconsin. The Division periodically checks fish to determine levels of pollution--if any--in streams. The Division has also helped the Legislative Council subcommittee draft pesticide legislation for introduction in the 42nd Legislature.

The Division has initiated a program of environmental planning which is designed to provide comprehensive information upon which to base recommendations concerning future utilization of state resources. Data and information currently available in the Department is generally limited to that necessary to manage hunting and fishing activities--that is, to regulate the annual harvest of fish and wildlife.

Three planning ecologists are now employed in the Division. The ecologists are assigned to a specific area to conduct intensive research and identify all the needs of the wildlife in the area. The ecologists must study the entire system surrounding the wildlife to determine what development can take place without threatening the wildlife habitat and, if a conflict between the developer and the habitat arises, what adjustments can be made by both.

The three ecologists are currently studying an area in which no immediate major development is anticipated. The Division Chief has indicated, however, that the demand for planning ecologists in areas where development--principally of an industrial nature--is imminent or underway will require that the ecologists emphasize study of those areas. The planning ecologist who is to be employed in Lincoln through agreement of the mining company and the Fish and Game Commission is an example of this shift in emphasis. The Division Chief has indicated that more cooperative work in this area is anticipated with private developers and concerned federal agencies.

Funding and Personnel. Program expenditures including capitol construction expenditures for fiscal year 1970 were \$50,876. The Commission employees 1 Division Chief and 6 other employees in the program.

Information and Education

General. The Commission is specifically empowered to establish and maintain an educational and biological department (Section 26-104 [22], R.C.M. 1947). This provision is the statutory authorization for the Commission's Information and Education Division. The duty of the Division is to inform sportsmen, outdoor recreationists, and Montana residents of hunting seasons and recreation potentials; promote an understanding of fish and game management principles; and assist other divisions with printing and related services.

Generally, the Information and Education Division's chief and assistant chief are responsible for all Division activities, and they coordinate the endeavors of the print shop, film center, and the information entry office in Helena. The Division employs seven district information officers to coordinate, plan, and direct Division activities in seven districts located throughout the state. The information officers prepare television programs based on wildlife management and develop and cultivate local news outlets (newspapers and radio) for dissemination of the Division's information.

Description. The Information and Education Division informs and educates the public on matters concerning wildlife management, hunter and water safety, landowner--sportsmen relationships, natural resources conservation, and outdoor recreation through the following media.

1. Printed Materials and Individual Correspondence. The Information and Education Division answers inquiries from interested individuals, local sportsmen groups, and state and federal agencies concerning outdoor recreation, the environment, wildlife management, and related matters. During fiscal year 1969, over 90,000 inquiries were answered by the Division. Many of the inquiries are answered by printed literature, but special letters are prepared for those which cannot be answered in this manner.

2. News Releases. Approximately 800 news releases are mailed weekly to newspapers, TV and radio stations, sports writers, County Attorneys and fish and game personnel. These releases cover news topics such as opening season dates, special regulations, fishing and hunting conditions, land acquisitions, and the actions of the Montana Fish and Game Commission. Newspaper mats and slicks are prepared and distributed when required to clarify regulations and restrictions.

3. Films. The Information and Education Division maintains a film library of 60 to 70 selections of 16mm sound films which are loaned to schools, sports groups, civic groups and other interested organizations within the state. The Division also produces conservation-oriented 16mm sound films within its own film center. During fiscal years 1965 and 1966, 890 film requests were filled for clubs, groups, and schools. During fiscal year 1969, approximately 2,000 requests for films were processed by the Division.

4. Radio and Television Broadcasts. During the last biennium, approximately 150 five-to-ten minute radio programs on wildlife, recreational subjects, and Commission activities were prepared and distributed to 24 Montana radio stations.

5. Information Entry Office. The Division maintains an information entry office at the Sam W. Mitchell building in Helena to process fish and game license applications, answer personal and telephone inquiries, and direct interested individuals and groups to the various Commission Divisions.

In addition to the aforementioned activities, the Division also conducts a hunter safety course, provides water safety information, and conducts youth education programs. As authorized by Section 26-202.1, R.C.M. 1947, the Information & Education Division conducts a course of instruction in the safe handling of firearms and issues certificates of competency in the safe handling of firearms. The hunter safety program is taught by volunteer instructors and the Division has aided in instructing and issuing certificates of competency to 70,000 students in the last three years. The Division also issues posters, writes stories, and publishes information concerning water--safety and water equipment safety and presents slides, attends speaking engagements, and visits organized youth camps in the state to illustrate principles of wildlife conservation and management.

The Division operates a print shop and film center. The print shop produces approximately 500,000 printing impressions each month. Regular printing includes approximately 130 different types of department forms and booklets; a variety of educational materials; monthly activity reports; signs for game ranges and other management and recreational units; regulation notices; questionnaires; form letters; federal aid project forms; and completion reports of projects. Blueprinting for contract specifications and maps is also completed for the other Fish and Game Divisions in the print shop. The film center develops and distributes educational films and processes still photographs.

Funding and Personnel. Program expenditures including Capitol construction expenditures for fiscal year 1970 were \$410,718. The Commission employs a Division Chief, an assistant chief, and 29 other employees in the program.

Fisheries Division

General. The purpose of the Fisheries Division, as expressed in the Department's 1970 Annual Report to the Governor, is to conduct fish restoration and management projects and to manage Montana's aquatic resources to perpetuate a broad spectrum of natural habitat and preserve good fish and fishing opportunities.

The Division is responsible for the following activities: formulation of proposed fishing and related regulations; habitat preservation and improvement; hatchery operations; commercial fisheries development; fishing access development; and studies, inspections and surveys relating to fish, fishing, and aquatic matters.

Description. 1. Formulation of Proposed Fishing and Related Regulations: The Division, in cooperation with the Fish and Game Commission, formulates regulations concerning fishing, public health and sanitation requirements for persons using the shores and waters of certain lakes and recreational areas in the state, and ice fishing shelters. Proposed regulations for the aforementioned subjects are formulated by Division personnel and transmitted to interested organizations and individuals for comment. The suggestions submitted by interested individuals or organizations are reviewed by Division personnel, the Fish and Game Director, and, if acceptable, are approved by the Fish and Game Commission and incorporated into the regulations. Regulations are formulated annually providing for fishing limits, seasons, hours, means of taking, closed and open areas, and juvenile fishing areas. Permanent regulations have been formulated providing health and sanitation requirements for persons using Browns and Georgetown Lakes, and prescribing ice fishing shelter limitations for Browns and Georgetown Lakes and Deadman's Basin Recreation Area. (See the Organization section of this report for a discussion of Commission review of proposed Departmental regulations.)

2. Habitat Preservation and Improvement: The Fisheries Division preserves and improves fish habitat by conducting investigations of construction projects affecting streams or tributaries and lakes and streams.

The Stream Preservation Act (Section 26-1501 through 26-1507, R.C.M. 1947) requires that any agency of state government constructing any project which will obstruct, damage, diminish, or vary the natural existing form of any stream or its tributaries must cause notice of such planned construction to be served upon the Fish and Game Department. It also provides that the Department may determine that the project will adversely affect fish or game habitat. The Fisheries Division and the Environmental Resources Division investigate these projects and conduct chemical, thermal, and water volume studies to determine possible fish habitat damage. In fiscal year 1970, the Division provided technical consulting services to other state agencies and subdivisions on 150 construction projects.

3. Hatchery Operations: The purpose of the hatchery operations is to provide quality game fish for planting in Montana waters. The Fish and Game Director has general supervision over all hatcheries in the state and with the approval of the Fish and Game Commission is empowered to employ a superintendent of state fisheries (Section 26-115, R.C.M. 1947). The superintendent of fisheries is a member of the Fisheries Division staff and is responsible for supervision of the operation and maintenance of eight state hatcheries and four national hatcheries located in Anaconda, Arlee, Great Falls, Lewistown, Big Timber, Bridger, Libby, Somers, Bozeman, Creston, Ennis, and Miles City. Monthly and cumulative records for the individual hatcheries and of state wide hatchery production are kept and evaluated by the superintendent.

The superintendent is also empowered to distribute fry, fingerlings, or fish in Montana waters (Sections 26-115 and 26-117, R.C.M. 1947). From May 1, 1969 through April 30, 1970, over 770 planting trips were made from state hatcheries, resulting in the planting of nine million rainbow, cutthroat, brook trout and kokanee, coho, and grayling in Montana waters. Approximately 5,500,000 fish were planted from national hatcheries.

4. Commercial Fisheries Development: The Fish and Game Department enters into contracts with commercial fisherman and private companies providing for commercial fishing in Montana waters. In fiscal year 1969, the Department executed seven commercial fishing contracts. The Fisheries Division reviews the terms of the contracts and makes recommendations to the Department concerning the contracts. Studies of commercial fishing areas are also made by the Fisheries Division to determine whether commercially valuable species are present. The studies are also conducted to learn more about the migration patterns and abundance of game fish.

5. Fishing Access Development: The Fisheries Division recommends areas to be purchased as fishing access sites to the Recreation and Parks Division. The Division's recommendations are based upon requests received from fishermen who are unable to reach good fishing areas and fish populations. In fiscal year 1969, the Division recommended 14 fishing access sites to the Recreation and Parks Division.

6. Studies, Inspections, and Surveys Relating to Fish, Fishing, and Aquatic Matters. In fiscal year 1970, the Division provided technical fisheries advice to 16 private individuals and investigated 55 reports of pollution and 29 fish kills. The Division also conducted over 450 surveys of fish age and growth; numerous population and size surveys; detailed fisheries investigations on Flathead Lake, Yellowtail Reservoir, and Clark Canyon Reservoir; studies of fish populations on the Madison, Yellowstone, Beaverhead, and East Gallatin Rivers, Poindexter Slough and O'Dell Creek; and several specific studies on Montana's lakes and streams.

Funding and Personnel. Program expenditures including Capitol construction expenditures for fiscal year 1970 were \$1,169,490. The Commission employs a Division Chief, a superintendent of hatcheries, and 53 other employees in the program.

Law Enforcement Division.

General. The Law Enforcement Division was created by administrative action--not specifically by law. Most of the functions now carried out by the Division, however, are provided by laws as powers and duties of the Commission or the Department.

The purpose of the Division is to effectively enforce the fish and game laws of the state and the orders, rules, and regulations of the Fish and Game Commission.

The Law Enforcement Division performs four basic functions: 1) enforcement, 2) administration, 3) fish and game management, and 4) information and education. The aforementioned activities are carried out by headquarters and field personnel. The issuance of licenses (administration) is done at headquarters under the direction of the Assistant Chief of the Division. The other activities are handled through the administrative districts of the Department. Each district has a Warden Captain (supervised by the District Supervisor). There are 66 other employees in the districts including 5 warden sergeants, 2 warden pilots, 58 wardens and 1 warden trainee.*

Description. 1) Enforcement: Enforcement duties and responsibilities require 50 per cent of the manpower effort of the Division. These responsibilities include enforcement of all rules and regulations of the Fish and Game Commission; enforcement of fish and game laws contained in Title 26, R.C.M. 1947; enforcement of the litter laws (Section 32-4410, R.C.M. 1947); boat and water safety laws (Sections 69-3501 through 3518, R.C.M. 1947); vandalism laws as they apply to public and private recreational property (Section 94-3308 and 3309, R.C.M. 1947); park laws and regulations (Sections 62-301 through 314, R.C.M. 1947); and snowmobile laws (Sections 53-1001 through 1011, R.C.M. 1947)**.

The wardens in the districts are assigned specific areas for which they are responsible. The wardens patrol the lands and waters in their area to see that the laws and regulations cited above are obeyed. Wardens particularly choose hunting areas, fishing streams and lakes, and public recreation areas to patrol, since obviously the most violations occur in these areas. If a warden sees or suspects an actual violation, it is his duty to apprehend the suspected violator and begin an investigation.

*It should be noted that the Wardens are required to retire at age 60 and due to the special requirements of their employment have a separate retirement system with provisions designed particularly for them. (See the May 14, 1970 staff report-Supplement #2 to the Report on Department of Administration, p. 43.

**The Commission attorney has advised the Department to "do nothing" about the administration and enforcement of the snowmobile laws due to a case that is testing the constitutionality of the law.

Based on his findings he either arrests the violator, issues a notice of violation which requires the violator to appear and pay a fine, or releases the violator. Subsequently the warden is sometimes required to appear and testify in court.

Wardens are also involved in some activities directed toward the goal of informing the public of requirements, reasoning and importance of the laws and regulations governing hunting, fishing, and outdoor recreation in order to prevent violations due to ignorance. These activities include informal discussions with hunters and fishermen in the field.

2) Administration: The administrative activities of the Law Enforcement Division--the issuance of various licenses and permits--requires 20 per cent of the manpower effort of the Division. Provisions concerning hunting and fishing licenses are contained in Title 26, Chapter 2, R.C.M. 1947. Detailed requirements and specifications are set out in that chapter. An administrative manual of the Division elaborates on these provisions. It is the duty of the Division to administer the issuance of licenses according to these laws and regulations.

General hunting and fishing licenses are available at all offices of the Fish and Game Department. However, provision is also made for the issuance of general licenses by other "license agents" (Sections 26-220 through 224, R.C.M. 1947). The Fish and Game Director is authorized to appoint license agents as needed to sell state hunting and fishing licenses according to the rules and regulations of the Commission.

License agents are appointed at established places of business such as, bars, restaurants, sporting goods stores, and grocery stores. The agents are appointed according to need and chosen to best serve the hunter and fisherman in the area. There are currently 433 duly appointed license agents in the state. The appointments are non-transferrable; that is, they are valid only at the single location of the business stated on the certificate of appointment. The Director may summarily revoke the appointment. The agent is required to furnish bond. Each agent, except salaried fish and game employees, receives 15 cents for each license issued. On or before the 10th of each month each agent submits to the Division headquarters the duplicates of the licenses issued during the previous month and the fees collected from the sale of these licenses (less the 15 cents he keeps). Wardens on the district level check each agent once a month and audit his license issuance activities to determine that each agent submits the proper amount in collected fees.

The issuance of special licenses is conducted at the headquarters office of the Department. The special licenses are issued for certain game animals such as antelope, moose and goats and for special seasons or hunting areas. The special licenses are issued on the basis of animal population and condition as determined by the Game Management Division. The procedure involves application by the sportsmen with the proper fee, processing by Department personnel and the Data Processing Division of the Department of Administration, and random drawing by private citizens of the pre-determined number of applications. Upon the completion of the drawing a list of the successful applicants is posted, the licenses are mailed to the successful applicants and state warrants are mailed to the unsuccessful applicants (refund of their fee).

Miscellaneous permits are issued by the Law Enforcement Division under various provisions of Title 26, R.C.M. 1947, as follows: game and fur farm permits (Section 26-1201, R.C.M. 1947); certificate of identification for fox and mink farms (Section 26-1202, R.C.M. 1947); private fish pond licenses (Section 26-306, R.C.M. 1947); minnow seining licenses (Section 26-333, R.C.M. 1947); field trail permits (Section 26-301, R.C.M. 1947); outfitters licenses (Section 26-901, R.C.M. 1947); shooting preserve licenses (Section 26-1601 through 1614, R.C.M. 1947); taxidermist license (Section 26-907, R.C.M. 1947); scientific collection permits (Section 26-1008, R.C.M. 1947); roadside zoo and menagerie permits (Section 26-1205, R.C.M. 1947). The issuance of these permits follows procedures and requirements set out in the law and in the Division administrative manual. The work of issuing these permits is handled primarily by the headquarters office. The wardens at the district level inspect the facilities of some of the operators who are issued special permits by the Commission to see that the operators are conducting their activities according to the terms of the permit.

The activities in the administrative area also include some general work involving the maintenance of Department lands and the repair and maintenance of equipment utilized by the Division.

3) Fish and Game Management: The management responsibilities of the Law Enforcement Division require 15 per cent of the manpower effort of the Division. The management activities are conducted in the field by the wardens. The control of game and fur damage to private property is a direct responsibility of the wardens. Trapping and transplanting, herding, use of protective devices such as chemicals and fencing are methods employed by the wardens to protect private property. Wardens are assigned management duties by the District Supervisors; for example, animal counts, collection of biological specimens, stream surveys, fish creel checks, and game bag checks.

4) Information and Education: Information and education duties require 15 per cent of the effort of the Law Enforcement Division. The primary duty of the Division in this area is to provide information to the public, particularly the sportsmen, regarding hunting and fishing rules and regulations, areas and seasons. Information is disseminated through the media (radio, television and newspapers) and through meetings with sportsmens' groups, service organizations or other interest citizens.

Training and education is conducted through the methods named above and also through youth programs such as hunter safety classes.

There are some miscellaneous duties performed occasionally by Law Enforcement Division personnel which are not described in the other four areas. The Division cooperates with local, state and federal agencies in areas such as search and rescue (particularly lost hunters and fishermen), fire prevention, traffic control, civil defense, apprehension of criminals and rabies control.

The following chart gives a brief capsule view of recent accomplishments of the Division in terms of number of functions performed:

LAW ENFORCEMENT ACCOMPLISHMENT RECAPITULATION

for the period March 1, 1969 through February 28, 1970

Enforcement

No. Notice to Appear & Complaints issued	2,379
No. Courtesy Citations issued	267
No. Complaints filed	2,195
No. Convictions	1,974
No. Dismissed	106
No. Juvenile cases	347
No. Cases assisted	1,192
No. Days posting preserves & notices	100.5
No. Days cooperation other enforcement agencies	316.52

Administration

No. License dealer audits	6,456
No. Inspections made	919
No. Days administration Department lands	423.5
No. Days equipment repair & maintenance	1,011.5

Fish & Game Management

No. Fish creel checks	32,126
No. Game bag checks	19,096
No. Trips game or bird census	171
No. Beaver permits issued	140
No. Days trapping & or transplanting	338.25
No. Trips fish planting	197
No. Days collection of biological specimens	512
No. Trips range, stream & lake surveys	281
No. Days damage control	1,409.25

Information & Education

No. Sportsmen meetings attended	286
No. Speeches given	158
No. Training courses conducted	89
No. Days hunter & water safety	597
No. Days cooperation other agencies	306

Funding and Personnel

Program expenditures including capital construction expenditures for fiscal year 1970 were \$1,178,050. The Commission employs a Division Chief an assistant chief, 58 wardens, and 19 other employees in the program.

A major portion of the funds of the Fish and Game Department are derived from license fees and sales of the Law Enforcement Division as is shown in the following chart:

MONTANA FISH AND GAME DEPARTMENT
INCOME FROM LICENSE SALES
May 1, 1968 - April 30, 1969

Hunting and Fishing Licenses:

Resident Fishing	122,823	@ \$ 4.00	\$ 491,292.00
Resident Bird	41,706	@ 2.00	83,412.00
Resident Fishing - Bird	16,179	@ 6.00	97,074.00
Resident Bird - Youth	5,075	@ 1.00	5,075.00
Resident Fishing Duplicates	2,274	@ 1.00	2,274.00
Non-Resident Limited Fishing	56,012	@ 5.00	280,060.00
Non-Resident Season Fishing	7,890	@ 15.00	118,350.00
Non-Resident Bird	689	@ 25.00	17,225.00
Non-Resident Fishing Duplicates	118	@ 1.00	118.00
Elk - Adult	11,152	@ 3.00	33,456.00
Deer A - Adult	49,439	@ 3.00	148,317.00
Elk - Deer A - Adult	60,429	@ 6.00	362,574.00
Elk - Youth	720	@ 1.50	1,080.00
Deer A - Youth	5,680	@ 1.50	8,520.00
Elk - Deer A - Youth	4,254	@ 3.00	12,762.00
Elk - Deer A Duplicates	1,618	@ 1.00	1,618.00
Deer B - Adult	20,644	@ 5.00	103,220.00
Deer B - Youth	1,831	@ 2.50	4,577.50
Deer B Duplicates	160	@ 1.00	160.00
Resident Combination	4,177	@ 12.00	50,124.00
Resident Combination Duplicates	104	@ 1.00	104.00
Non-Resident Big Game	7,165	@ 150.00	1,074,750.00
Non-Resident Big Game Duplicates	29	@ 1.00	29.00
Resident Mountain Sheep	240	@ 25.00	6,000.00
Resident Mountain Goat	769	@ 15.00	11,535.00
Resident Turkey	1,496	@ 2.00	2,992.00
Resident Grizzly	1,149	@ 1.00	1,149.00
Resident Special Duplicates	5	@ 1.00	5.00
Sportsman	427	@ 20.00	8,540.00
Sportsman Duplicates	3	@ 1.00	3.00
Non-Resident Mountain Sheep	88	@ 50.00	4,400.00
Non-Resident Mountain Goat	243	@ 30.00	7,290.00
Non-Resident Turkey	105	@ 2.00	210.00
Non-Resident Grizzly	137	@ 25.00	3,425.00
Non-Resident Special Duplicates	3	@ 1.00	3.00

Bow and Arrow	2,865	@	3.00	8,595.00	
Shipping Permits	91	@	.60	54.60	
Non-Resident Bear	57	@	35.00	1,995.00	
Non-Resident Deer	5,106	@	35.00	178,710.00	
Non-Resident Antelope	1,112	@	35.00	38,920.00	
Resident Antelope	16,355	@	3.00	49,065.00	
Non-Resident Antelope	895	@	10.00	8,950.00	
Resident Moose	624	@	25.00	15,600.00	
Non-Resident Moose	34	@	50.00	1,700.00	
Other Special Duplicates	86	@	1.00	86.00	
Grizzly Trophy	12	@	25.00	300.00	
				<u>\$3,245,699.10</u>	
Less Dealers' Fees				<u>62,934.15</u>	\$3,182,764.95

Miscellaneous Sales:

General Trapper	936	@	\$ 10.00	\$ 9,360.00	
Beaver Tags	12,047	@	.50	6,023.50	
Beaver Permits	121	@	10.00	1,210.00	
Outfitter	372	@	10.00	3,720.00	
Land Owner Trapper	117	@	1.00	117.00	
Resident Fur Dealer	24	@	10.00	240.00	
Fur Dealer Agent	20	@	10.00	200.00	
Non-Resident Fur Dealer	2	@	50.00	100.00	
Taxidermist	35	@	15.00	525.00	
Minnow Seining	22	@	10.00	220.00	
Commercial Beaver Tags	439	@	.05	21.95	
				<u>\$ 21,737.45</u>	

TOTAL INCOME FROM LICENSE SALES

\$3,204,502.40

Game Management Division

General. The Game Management Division of the Fish and Game Department is not specifically created by law. Section 26-106, R.C.M. 1947, provides that the director has the authority to establish department divisions with the approval of the Commission. The programs conducted by the Game Management Division are generally authorized by the provisions assenting to the federal Pittman-Robinson Act (Sections 26-1122 through 26-1124, R.C.M. 1947).

Approximately 62 per cent of the operating revenue of the Division is derived from federal appropriations under the Pittman-Robinson Act of 1937. In 1941, the Legislature of Montana assented to the provisions of the act and provided that the Fish and Game Commission do all things necessary for the establishment and conduct of wildlife projects as defined by the federal act (Sections 26-1122 through 1124, R.C.M. 1947). The federal act provides federal funds for "wildlife-restoration projects". By the terms of the act, a wildlife restoration project includes:

" . . . the selection, restoration, rehabilitation, and improvement of areas of land or water adaptable as feeding, resting or breeding places for wildlife, including acquisition by purchase, condemnation, lease, or gift of such areas or estates or interests therein as are suitable or capable of being made suitable therefor, and the construction thereon or therein of such works as may be necessary to make them available for such purposes and also including such research into problems of wildlife management as may be necessary to efficient administration affecting wildlife resources. . ."

Provision was made in the act to allow the state (after 1945) to spend a maximum of 25 per cent of the total allocation on maintenance of completed projects. The act also provided that the state could spend a maximum of 30 per cent of its total allocation for management of wildlife areas and resources.

The activities of this Division are dependent to a large degree on the availability of federal funds and on the rules and regulations of the Department of the Interior as to the use of these funds.

The basic purpose of the Division is to maintain Montana's wildlife resource for its recreational, economic and ecological values. By maintaining the wildlife population the Division provides an annual crop of animals for which hunting permits can be issued and set.

The activities of the Division are carried out in the field within the seven administrative districts of the Fish and Game Department, subject to executive supervision from headquarters personnel and field supervision from the District Supervisor and the District Game Manager.

The Division conducts two primary activities: 1) data gathering and analysis; and 2) land acquisition and development. These functions are performed through three administrative Sections: the Surveys and Inventories Section, Research Section, and Lands and Land Development Section.

Description. 1) Data gathering and analysis:

a) Surveys and Inventories Section.

The field biologists at the district level are responsible for gathering and analyzing all data necessary to determine the status of the wildlife and their habitat in that district. The surveys and inventories conducted include animal population counts in designated hunting areas, and age, sex and general health analysis of the animals which is correlated with the population count. The findings are compiled into a statewide game-management proposal by the Division Chief. This proposal provides the basic data used by the Commission and the Department when establishing hunting areas, season dates and harvest limits.

Data is also compiled which indicates to the Department and to other affected agencies and individuals (Forest Service, Bureau of Land Management, land owners and hunters, etc.) the condition and trends within wildlife populations and wildlife habitats. Extensive research is conducted by the field biologists to determine such things as the number of young females in a given wildlife population and the condition and availability of winter feeding areas. Repeated ground and aerial surveys are conducted by Division personnel throughout the year. Long term game management programs are based on the results of this data.

b) Research Section.

The Chief of the Research Section directs the activities of eight research biologists. The Research Section receives research assistance from students through a cooperative program with Montana State University and the University of Montana.

Data compiled in the Research Section is of a detailed and specific nature. The Surveys and Inventories Section compiles data and statistics on existing wildlife populations and habitats; the Research Section emphasizes the in-depth study of animals' environmental requirements--studies which when applied to the management program can effectively indicate why the statistics gathered are as high or low as they are and what can be done to change the trends.

Research conducted involves determining the ecological requirements of big game (deer, elk, bear, mountain goats, etc.) and small game (grouse, turkeys, waterfowl, etc.). The research has resulted in more successful elk management plans, improved hunting seasons and overall improvements in the status of wildlife management in the state.

Several detailed studies (started in 1965 through 1967) of the affects of forest insecticide on wildlife have been conducted. Forest grouse-DDT studies contributed to the discontinuance (1964) of use of persistent pesticides on public forests requested by the Commission. A 10 year study is continuing to determine the affects of herbicide removal of sagebrush on associated plants and animals. This study should provide important knowledge to aid the management of sagebrush-grasslands for optimum public benefits.

The technical analysis required for some of the studies and research conducted by the Division is carried out primarily at the Fish and Game Laboratory located on the campus at Montana State University. A limited amount of work is done in private laboratories, such as a veterinary clinic.

2) Land Acquisition and Development: This function is performed by the Lands and Land Development Section. The purpose of acquiring and otherwise controlling lands through the Game Management Division is to protect, preserve, develop, maintain and manage lands primarily to benefit game and fur bearing animals, birds and associated wildlife. The Commission acquires land by purchase and lease. As of July 1, 1970, the Commission owned or leased a total of 202,670 acres of land that were managed by this Division. Of this number, 100,671 acres were owned and 102,481 were leased; and, 149,778 constituted big game range acreage and 52,892 small game areas acreage. The largest single land acquisition of the Division in fiscal year 1970 was the Beartooth Game Range. This land was acquired at a total cost of \$783,750 (\$587,812 in federal funds and \$195,938 in Fish and Game funds). The project, constituting a total of 32,320 acres, was acquired as part of a program of providing winter range for big game and habitat for other wildlife species.

(The Commission also acquires lands through the Recreation and Parks Division and the Fisheries Division.)

The lands are managed by the field personnel at the District level. Field stations are established in game management areas and operated by a Game Range Manager. All field station operations are under the direct supervision of the District Game Manager.

Development of lands in both small and big game areas is basically designed to encourage the growth of game populations in those areas. General property improvements are made to facilitate use by the public, but primary improvements are those made to benefit the animal populations. These special improvements include timber management and range rehabilitation on big game areas; cultivated and crop production for wildlife food; planting trees, shrubs and aquatic plants; and nesting structures on small game areas.

Funding and Personnel. Program expenditures including capitol construction expenditures for fiscal year 1970 were \$1,907,498. The Commission employs a Division Chief, 2 assistant chiefs, and 52 other employees in the program.

Recreation and Parks

General. In 1939, provision was made by the Legislature for the establishment and administration of state parks, recreational areas, historic sites and state monuments (Laws of Montana, 1939, Chapter 48). A three-member Parks Commission was created to administer the provisions of the aforementioned act. In 1953, the Parks Commission was abolished and its powers and duties transferred to the Highway Commission. The Highway Commission directly administered a Parks Division until 1965. In 1965, the administration of the Parks Division was transferred to the Fish and Game Department (Laws of Montana, 1965, Chapter 69). The Parks Division was combined by the Fish and Game Department with its Land and Land Development Division to form the current Recreation and Parks Division, and carries out the applicable provisions of Title 62, Chapters 3 through 8, R.C.M. 1947. The primary objective of the Division is the acquisition, restoration and preservation, for the state of those areas, sites or objects which should be held, improved and maintained as state parks, state recreation areas, state monuments and fishing access sites.

The three major activities of the Recreation and Parks Division may be summarized as follows:

1. acquisition, development and operation of the state parks system in conjunction with the fishing access program (Title 32, Chapters 3 through 8, R.C.M. 1947);
2. administration of the Land and Water Conservation Fund Act (Public Law 88-578) which provides federal cost sharing for acquisition and development of outdoor recreation areas by state and local agencies;
3. administration of the National Act for the Preservation of Historic Sites (Public Law 89-665).

The first of the three activities listed above (state parks and recreation) is regulated by state law and regulation and funded by state revenue. The Division is directed to perform the second activity (administration of the Land and Water Conservation Act) by state law (Sections 62-401 through 404, R.C.M. 1947). However, the duties of the Division in this area are regulated by federal law and regulation and funded in part by federal funds. The third activity (administration of the National Act for the Preservation of Historic Sites) is authorized by state law (Sections 32-304 and 308, R.C.M. 1947) but regulated by federal law and regulations and funded in part by federal funds.

The laws and regulations of the federal acts and agencies require state-wide planning and certain procedures on the part of the state. They provide for federal matching funds on a 50-50 matching ratio basis and are administered through the Department of the Interior.

Description. Following is a more detailed description of the three primary activities of the Recreation and Parks Division. It should be noted that the activities in each area may overlap since they all have a common purpose - the acquisition and development, within the state, of outdoor recreation facilities including parts, monuments and historic sites.

(1) Administration of state parks and recreation activities.

The Fish and Game Commission is directed (in Section 62-304, R.C.M. 1947) to acquire by purchase, lease, agreement, donation or condemnation for the state all areas which in its opinion should be held, improved and maintained as state parks, state recreational areas, state monuments or state historical sites.

In fiscal year 1970, the Recreation and Parks Division acquired 1809 acres of land for the benefit of outdoor recreation; 617 acres were acquired by purchase, 140 acres were donated and 1,052 acres were acquired by easement, lease or agreement. Section 62-304, R.C.M. 1947, grants to the Commission the power to condemn sites if purchase cannot be negotiated. The Division Chief has indicated that the Fish and Game Commission has never condemned any land. As of July 1, 1970, a total of 19,691.53 acres (plus 37 lots) was administered by the Fish and Game Commission as a State Park, Monument or Recreation Area. Of that amount, 5,845.52 acres (or approximately 30 per cent) was acquired by purchase and 13,846 acres, (or approximately 70 per cent) was acquired through lease or other agreement.

The staff of the Division, particularly the land agent and surveyor, are responsible for choosing areas for designation as state parks, recreation areas, etc., and procuring the selected land through purchase, lease, or agreement.

The Division is responsible for the development and administration of the selected areas. Camping facilities, picnic tables, boating access, etc., are improvements commonly made at parks and recreation areas. State monuments and historic sites sometimes require special improvements such as information markers*, fencing or renovation. Currently, the state monuments and historic site program is limited. The staff designates areas of historic significance in order to protect the areas. There are currently 9 state monuments and 270 state historic sites. Those of greatest significance are placed on the National Register of Historic Places maintained by the National Park Service. There are currently 18 historic sites in Montana which are noted on the National Register. Those listed are protected by federal law against destruction.

The Division managed 153 separate areas for public outdoor recreation in fiscal year 1970. Some of the areas require only general maintenance such as mowing or garbage disposal. Other areas, such as large overnight camping sites, require full-time attention, at least during the summer months, and

*Information markers are currently constructed and installed by the Highway Commission (Advertising and Maintenance Divisions).

110-115 persons are employed in the summer months for daily supervision of some sites, light construction and maintenance or as guides or equipment operators. These temporary personnel are supervised by the Division staff at the district level. Division personnel must also handle contracts made with operators of various concessions such as restaurants or souvenir shops. Division personnel also collect certain fees and charges. An admission fee is charged at the Lewis and Clark Caverns and recently (since 1969) the Fish and Game Commission has charged a small fee for overnight camping in selected areas (\$1.00 per vehicle for each night). These fees pay a portion of the general operation and maintenance costs of these areas.

(2) Administration of Land and Water Conservation Fund Act.

The Land and Water Conservation Act of 1965, provides federal funds for state-wide planning and subsequent plan implementation. Federal funds are granted on a project-by-project and a 50-50 matching ratio basis. The projects may be initiated by the Fish and Game Commission or may be requested and partially funded by a local agency through the sponsorship of the Commission. In fiscal year 1970, 18 local projects and 11 state projects were approved for a total expenditure (both state and federal) of just over \$1 million. The projects include such activities as acquisition and development of picnic or camping areas, and construction of city parks, swimming pools or other outdoor recreation facilities. The current Outdoor Recreation Plan submitted by the state is approved for participation in the program until August, 1972.

The Outdoor Recreation Advisory and Planning Committee was established in 1965 and consulted and advised the Fish and Game Commission for three years on programs initiated by the Land and Water Conservation Act. The activities of this Commission are discussed separately in this report.

(3) Administration of the National Act for the Preservation of Historic Sites.

The plan prepared under the provisions of the National Act for the Preservation of Historic Sites was recently submitted; the Commission is currently awaiting action by the Department of the Interior. The total 1969-71 biennial appropriation for this program was only \$5,000 (one-half state and one-half federal) and consequently activity in this area was limited. Once the plan is approved, more federal matching funds will be available and activity will increase accordingly.

The Advisory Committee for Preservation of Historic Sites was appointed by the Governor in 1967 as required by the federal act. The activities of this Committee are discussed separately in this report.

Funding and Personnel. Program expenditures including capitol construction expenditures for fiscal year 1970 were \$1,144,359. The Commission employs 1 Division Chief, 2 assistant chiefs, and 24 other employees in the program.

RELATIONS WITH OTHER AGENCIES

The following material is a compilation of the relations of the Fish and Game Department with other state, federal, and local government agencies, arranged according to each Division of the Department.

GAME MANAGEMENT DIVISION -- The plans and activities of other agencies and organizations which affect wildlife or the land and habitat and vegetation upon which wildlife depends, become a concern of the Division when populations of wildlife and/or their habitat are affected by the administration of land by other agencies. The practices of agriculture, forestry, watershed management, the building of dams, mining, strip mining, irrigation, weed control, grazing, sagebrush spraying, brush control, are some of the practices which affect wildlife and their habitat in Montana.

The U. S. Forest Service -- The Department is interested in the timber management plans of the Forest Service on a forest and local basis because sagebrush spraying has been a concern of the Division. A cooperative agreement exists in which game biologists inspect the proposed spray areas and make recommendations to the Forest Service from the viewpoint of effects of the proposed spraying on wildlife. The Division, through the Department, also cooperates in studies which include exclosures (small areas fenced to control use of forage for study), grazing studies, and most recently, the effect of logging and road construction by the Forest Service on elk.

Bureau of Land Management -- A cooperative agreement concerning brush control has been developed with the BLM, U. S. Department of Agriculture, in which the Department inspects proposed sagebrush spray projects for their effects on wildlife and makes recommendations to the BLM on how to alleviate and mitigate possible effects on wildlife. Contacts are made with BLM concerning leaselands which are sometimes withdrawn for wildlife when they are located on the wildlife management areas owned and controlled by the Commission.

Bureau of Reclamation -- The Division, through the Department, has cooperative agreements with the Bureau of Reclamation (U.S. Department of Interior) for the management of certain reservoirs under the control of the Bureau, and parts of reservoirs (such as Tiber Reservoir, Canyon Ferry and Clark Canyon Reservoir) which have lands which have been turned over to the Department by the Bureau for management to benefit wildlife. The Department has contact with the Bureau in its management of water, as the water management relates to waterfowl management.

U. S. Army Corps of Engineers -- The Corps advises on the Fort Peck and Libby Dam Projects. The Division, at present, conducts a wildlife study, and previously studied the impact of Libby Dam on wildlife in an effort to obtain mitigation measures for the destruction of or loss of wildlife habitat by the construction of this project.

Soil Conservation Service -- The Division is concerned with the activities of the Soil Conservation Service (SCS, U. S. Department of Agriculture) in Montana as they relate to the drainage of wetlands, the engineering of projects that are done by SCS for farmers and ranchers which affect wildlife; brush control, planning by SCS for private operators in agriculture, ranch management plans, and engineering that SCS does for private operators that has an effect on wildlife.

Agricultural Conservation Practice -- The ACP, U. S. Department of Agriculture, has cost-sharing practices for farmers and ranchers, especially developed for wildlife. The Division advises this organization on practices which will not be harmful, and those which may be beneficial, to wildlife.

Bureau of Indian Affairs -- There is a limited program of cooperation with the Bureau of Indian Affairs, primarily because most of the wildlife on the Indian reservations is not administered by the State Fish and Game Commission on tribal lands.

National Park Service -- The Division has cooperative programs with the National Park Service, particularly in Yellowstone National Park, for the management of grizzly bear, Gallatin elk management, and management of the northern Yellowstone elk herd. Yellowstone Park has for many years been the source of elk for transplanting throughout the state, and this work has been accomplished through cooperation with the Commission and the Park Service. Recently grizzly bear management and elk management have become more important in Glacier National Park as well.

Fish and Wildlife Service (U. S. Department of Interior) -- The Division participates in waterfowl management through the Pacific and Central Flyway Councils federal migratory bird preserves; the land acquisitions wetlands program; the Pittman-Robertson federal aid program; and river basin studies, in which reviews and information concerning the effects of development by other federal agencies on wildlife are provided. The Division has contact with the Wildlife Service through its wildlife services Predator Control Section, which affects black and grizzly bear and other wildlife where this predator control is practiced. The Division has contacts with the wildlife management programs of the National Wildlife Refuges throughout the state. Parts of the refuges are usually open to hunting under Commission regulations. Resident wildlife problems are usually administered by the Commission in cooperation with the Fish and Wildlife Service.

Office of the State Forester -- The Division cooperates with the State Forester in timber management as it affects wildlife. The State Forester operates a nursery which provides trees and shrubs for planting on the shelterbelts of the wildlife management areas of the Commission and the Division cooperates in fire protection and fire detection plans and practices under the supervision of the State Forester.

University of Montana -- The Division supports research on wildlife in cooperation with the University of Montana at Missoula and the Montana State University at Bozeman, in which wildlife problems outlined by the Department are taken by master and doctor's degree students for study. The Department supports these studies financially and receives the reports of investigations from this work.

State Land Board -- The Division cooperates with the Department of State Lands and Investments, especially in connection with spray projects proposed on state land and problems concerning wildlife use on state lands, when requested by the Land Board. The Commission leases certain lands of the state for wildlife use and is interested in the development of the state public lands and the use of these state lands by the lessees, which may use techniques and have impact on wildlife.

Livestock Sanitary Board -- The Division cooperates with the Livestock Sanitary Board in problems concerning the disease of wildlife; tests have been made of wildlife species for certain diseases which occur in livestock, with generally negative results. The monitoring of wildlife for disease and other contaminants and the autopsy of wildlife has been obtained through cooperation of the Livestock Sanitary Board laboratory at the Montana State University.

The Division also has contacts with the Data Processing Director of the Department of Administration. The Department has one of the most complicated programs for game research and game harvest surveys in using the services of the Data Processing Center in Helena. The Division of Architecture and Engineering supervises the large construction projects of the Division through the Department organization.

LAW ENFORCEMENT DIVISION -- The Law Enforcement Division is associated with several local, state and federal agencies. In law enforcement, there is a cooperative, working relationship between most city police departments and the local Warden. In addition Wardens are called upon from time to time to assist with water pollution matters and also to control the effects of various species of wildlife on city water supplies.

On a statewide basis, wardens assist and work cooperatively with sheriffs, highway patrolmen, livestock inspectors and state foresters on many law enforcement matters. Also, they are often

called in to assist with major criminal cases involving back country areas where their knowledge of the terrain is helpful.

Law Enforcement Division personnel work with several federal agencies, particularly the U. S. Fish and Wildlife Service, which administers the Migratory Waterfowl Act, the laws protecting bald and golden eagles and the Black Bass and Lacey Acts that regulate the interstate transportation of unlawfully taken game and fish. Wardens are also involved in federal census of migratory waterfowl and other migratory game birds.

There is a cooperative working relationship between the Law Enforcement Division and the U. S. Forest Service in most forested areas of the state since most hunting and fishing seasons on forest land also affect land and water management and campground use in these forest areas.

State Fish and Game Wardens are called upon by the FBI, Border Patrol, Treasury Department and other federal agencies for law enforcement assistance in locating persons, equipment, etc., in their mutual areas of jurisdiction.

FISHERIES DIVISION -- The Fisheries Division cooperates with the Federal Bureau of Sports Fisheries and Wildlife in planning federal hatcheries in Montana. The Division also cooperates with the U. S. Forest Service in coordinating fish management regulations in national forests in Montana. Consulting advice is given to the Federal Soil Conservation Service and the Corp of Engineers on construction projects that are conducted near or may affect fishing areas in the state. The Division also cooperates with the U. S. Geological Survey agency in water measurement surveys in Montana, and the Division provides information on Montana waters and aids in the investigation of the fishing areas of the state.

INFORMATION AND EDUCATION DIVISION -- The Information and Education Division cooperates with Montana State University and the University of Montana to establish a cooperative conservation education program. The Information and Education Division, through approval of the Fish and Game Commission, enters into agreements with the U. S. Forest Service for the production of recreational maps. The Division also cooperates with the Bureau of Land Management, whereby the Bureau furnishes funds and the Information and Education Division prepares a movie on a sagebrush ecology study being cooperatively accomplished by the Fish and Game Department and the Bureau of Land Management. The Division has cooperated with the Montana State Advertising Agency in conducting a number of out-of-state sports and travel shows. The Division provides information materials and shares expenses of the booth. In cooperation with the Montana Stockgrowers' Association, the Division prepared a bulletin on landowner-recreationist relationships.

ENVIRONMENTAL RESOURCES DIVISION -- The Environmental Resource Division Chief has indicated that he works with all agencies of state government and its political subdivisions which have any activities affecting fish and wildlife habitats, particularly those that are members of the Natural Resources Development Council. Development planning in all areas is watched by the Division. Counties or cities may also seek assistance from the Division to adjust any plans or projects in their jurisdictions to avoid harm to fish and wildlife.

The Division works with the Forest Service, Bureau of Land Management, Corps of Engineers, Bureau of Reclamation, Soil Conservation Service, Bonneville Power Administration, Bureau of Public Roads, Bureau of Sport Fisheries and Wildlife and the National Parks Service. The Division also has some contact with the military and with Tribal Councils for planning proper utilization of land in their respective jurisdictions.

All of the activities of the Division in cooperation with the agencies named above are directed to the goal of preserving the habitat of fish and wildlife. They involve many areas; for example: forest use and forest roads, highway construction, utilization of land as game feeding grounds, and levels of water maintained in certain lakes and reservoirs.

RECREATION AND PARKS DIVISION -- The cooperative activities of the Recreation and Parks Division with other agencies of state and federal government are centered around the utilization of land. The Recreation and Parks Division administers land belonging to other agencies through various agreements and leases. It also cooperates with these agencies in the development of recreation areas on the leased or granted land. The federal agencies which the Division works with in this area are the U. S. Army Corp of Engineers, the Bureau of Reclamation, the Soil Conservation Service, the Forest Service, and the Bureau of Land Management.

The Division utilizes land owned by the state under the supervision of the State Land Board. It also works with the State Forester in utilizing and developing state land. The Division cooperates with the Water Resources Board on the administration of three reservoir areas utilized for public outdoor recreation. The Highway Commission and the Division cooperate on the utilization of land owned by the Highway Commission for outdoor recreation purposes. The Highway Commission also cooperated by including in its highway plans various outdoor recreation facilities such as scenic stops, historic stops with highway constructed and installed informational markers, and access to recreational areas from the primary and interstate highways.

The Division submits applications on behalf of cities or counties to the Department of Interior. It cooperates with the local agencies and the federal agency throughout the life of a project to see that it is effectively administered. The primary activities of the Division with the Department of the Interior are directed through the Bureau of Outdoor Recreation.

MONTANA WATER RESOURCES BOARD*

Organization

Historical Notes

The Montana Water Resources Board created by the 1967 Legislature, has assumed the records of the Carey Land Act Board, and the powers and duties of the State Engineer and the Water Conservation Board. Therefore, a brief history of these agencies is necessary to comprehend the Water Resources Board's activities.

All through the West, the rapid settlement following the extension of the railroads created an interest in irrigation projects. In 1892 a statewide irrigation convention was called by the Governor of Montana. The convention met in Helena and passed resolutions requesting federal aid for irrigation projects. Similar requests were initiated in other Western states and, in 1894, Congress passed the Carey Act. The Act provided that Montana and other states should each be granted one million acres of federal land, classed as desert, if the states would provide irrigation for the land. Montana began its legislation regarding this matter by creating an Arid Land Commission in 1895 (Political Code of Montana 1895 § 3530 through 3547). In 1903 the Montana Legislature amended the previous legislation (Laws of Montana 1903, ch. 114 § 1 at 211) and created the Carey Land Act Board which consisted of the Governor, Secretary of State, and Attorney General. The State Engineer acted as secretary to the Board and was empowered to examine state lands to determine their agricultural potential, to conduct stream investigations, and to examine irrigation plans submitted to the Board. The Board was authorized to request the federal government to set aside certain tracts of federal land; to contract with construction companies to build the necessary irrigation reservoirs and ditches; to allow settlers to enter the land; and to lease or transfer title to settlers upon completion of the projects (Sections 1966 through 1995, R.C.M. 1921). The Board, with the State Engineer's assistance, investigated numerous projects and completed the Billings Bench, Big Timber, and Valier land transfers in the early nineteen hundreds.

In 1933, the nation was in a critical depression and the federal government, in an attempt to alleviate unemployment, established work programs designed to encourage the construction of public works. Montana's Governor proposed to the President that Montana be allowed to participate in water conservation construction projects financed by loans and grants provided by the Public

*With the exception of specific references to the duties of the seven members themselves, all references in this report to the "Board" will indicate the administrative organization under the direction of the seven Board members.

Works Administration. He was assured by the President that, if Montana would enact the necessary legislation in such form that the government could purchase the bonds of the administering state agency, the Public Works Administration would finance water conservation construction projects in Montana. Almost immediately work began on the preparation of legislation to create the State Water Conservation Board and late in 1933 the Governor called a special session of the Montana Legislature to enact the proposed legislation. The State Water Conservation Board was created by House Bill No. 39, and approved by the Governor on January 9, 1934.

The Act creating the Board declared that its purpose was to encourage public works and to reduce unemployment and thereby assist in the national recovery and promote the public welfare. It also declared that the public interest, welfare, convenience and necessity required the construction of a system of works for the conservation, development, storage, distribution and utilization of water and that the Board was performing a governmental function in carrying out the provisions of the Act. It specified that the Board was a body corporate and political with perpetual existence and was an agency of the State of Montana. The Board was granted broad powers allowing it to cooperate and enter into agreements with all federal and state agencies, investigate, survey, construct, operate and maintain, and to provide for the financing of construction projects by funds appropriated to it, by grants, or by the sale of water conservation revenue bonds. The Board was also granted authority to file on all unappropriated waters of the state and the right of eminent domain to acquire lands needed for projects (Laws of Montana, Ex. Session 1933, Ch. 35, at 92).

The Water Conservation Board immediately began a "crash" program of assembling and training engineers and other personnel for dams and canal construction and began submitting application for funding to federal agencies. In its period of operation (1934 to 1967) the Board constructed a total of 181 projects including 141 dams and reservoirs with a total storage capacity of 438,017 acre feet and 815.8 miles of canals.

In 1965, the Montana Legislature abolished the Office of the State Engineer, transferring the Engineer's functions to the Water Conservation Board; and simultaneously abolished the Carey Land Act Board, transferring the Board's records to the Water Conservation Board.

In 1967 Legislature declared that a single agency was necessary to coordinate the development and use of water resources in Montana (Section 89-101.2, R.C.M. 1947) and enacted the Water Resources Act. The Act (Sections 89-101.1 through 89-132.1, R.C.M. 1947) abolished the Water Conservation Board and created the Water Resources Board. The Act provided that the Water Resources Board would assume the Water Conservation Board's powers and duties. In addition, the Act designated the Board as the agency responsible for administering the newly enacted weather modification laws and instructed the Board to prepare a continuing comprehensive inventory of the state's water resources and a continuing comprehensive multiple use water plan.

Stewardship of the Montana Water Resources Board is vested in seven members, including the Governor and Director who are ex-officio members. The five remaining members are qualified electors of the state appointed for six year staggered terms by the Governor with the consent of the Senate. Board members may be removed by the Governor at any time. The Governor is Board chairman, and the vice chairman (who is elected by the Board members) is secretary-treasurer. The Board members meet for two days once a month in the Board's principal offices in the Sam W. Mitchell Building in Helena. A majority of the Board members constitute a quorum, and the affirmative or negative vote of four members is necessary to bind the Board. Each appointed member receives \$20 a day for each day he is actually engaged in the performance of the duties of his office, including travel time. Each member also receives travel and maintenance expenses (Section 89-103, R.C.M. 1947).

Board Activities

The principal activities performed by the Board, largely through its staff, are as follows: accumulating information on Montana's water resources and preparing an inventory and state-wide comprehensive coordinated multiple use water plan; providing engineering assistance and in certain instances actually constructing, operating, and maintaining water conservation projects; accumulating data on surface water rights and incorporating the information in a county by county water resources survey; gathering facts on ground water and administering the ground water code; participating in cooperative hydrography (Water measurement) studies and measuring stream flows and related information on certain projects; administering weather modification laws; representing Montana in negotiations between various states, the federal government, and foreign nations (Canada) on agreements or compacts relating to interstate or international waters; participating in numerous studies in cooperation with other states and the federal government involving water and related land resources; assisting local water users associations in technical and organizational matters; and aiding interested private persons in establishing water conservancy districts. Staff Research indicates that the Board members are merely informed of many of these activities and do not make policy decisions concerning numerous Board endeavors.

Before the Board member's monthly meeting, the Board's Director and department directors assemble and determine topics of discussion for the monthly meeting. A formal agenda incorporating these topics is prepared, and the department directors participate in a practice meeting to insure that they are prepared for the actual meeting. Prior to the meeting, copies of the agenda and briefs of major agenda topics are submitted to the Board members.

The actual monthly meeting is normally called to order by the vice chairman, roll is taken, and minutes for the previous meeting are read and approved. The Board members then declare an executive session to discuss personnel matters. Following the executive session, the department directors make presentations of their department's activities during the past month and propose future programs; private engineering consultants and salesmen present sales talks, out of state travel reports are submitted by Board personnel, and the meeting is adjourned.

The Board's Director and Board personnel indicate that the Board members spend the majority of their time reviewing information and policy recommendations submitted by Board personnel on past and present activities and devote little time to actual policy decisions. The Director has stated that he cannot recall one instance when staff policy recommendations were not accepted by the Board members, although he recalls that the Board members have requested supplemental information concerning staff recommendations on several occasions.

The Board's Director and the Executive Reorganization Commission staff have formulated a classification to indicate topics on which the Board members have expended time reviewing and accepting recommendations. The Board members spend the greatest amount of time considering recommendations and information on the following Board activities:

Administration. The Board's Director estimates that approximately 35 per cent of the Board members' time is spent reviewing and approving administrative matters. Board members are informed of nearly all Board administrative activities. More specifically, Board members are informed of: employment of personnel; employee resignations; increases in wages and elevation in position for all personnel; monthly accounting and budget statements for all departments; policy statements concerning secretarial assistance, annual leave, use of state owned vehicles, publications and printing, committee appointments, safety committee activities, telephone use, purchasing procedures, out-of-state travel reports, use of safety equipment, operation of the benevolent committee*, use of personal vehicles, agenda items at Board meetings, sick leave, designation of legal holidays, compensatory time, time and attendance reports, memoranda of travel, supply requisition procedures, and budget control procedures; job descriptions for personnel; legal court actions in which the Board is named as defendant and legal opinions on contemplated Board action; and public information activities.

Projects. The Director estimates that the Board members spend approximately 13 per cent of their time on matters involving project operation, maintenance, and construction. The engineering department personnel submit reports to the Board members on all project maintenance, construction, and operation performed by Board employees.

*The benevolent Committee is an intra-office committee designed to increase employee morale by scheduling social affairs, providing get well and congratulatory cards, and other miscellaneous services.

The Board members are also apprised of engineering services, such as preliminary surveys, provided by Board personnel or federal agencies to private persons or local water users associations. Also, the Board members approve approximately nine new or transferred water purchase contracts a month.

Water Conservancy Districts. According to the Board's Director, approximately 15 per cent of the Board members time is spent considering water conservancy district matters. Engineering firms have submitted proposals for feasibility studies on the East Central, North Central and projected Missouri-Headwaters water conservancy districts. The Board members have reviewed these presentations, chosen engineering firms to perform the studies, and approved study payment contracts. The engineering firms submit study progress reports to the Board members for their acceptance and the Board members approve monthly progress payments to the firms. Also, the Board members receive reports of water conservancy district organization meetings attended by interested local persons, Board personnel, and the consulting engineering firms.

State Water Plan. The Director estimates that the Board members spend approximately ten per cent of their time on state water plan matters. The four phases of the state comprehensive coordinated multiple use plan have been submitted to the Board members for their approval, and monthly status reports of phases I and II are currently being submitted to the members for their approval. Also, the members are informed of meetings held in Western Montana to determine needs for water and related land resources, and progress reports on federal and state studies (Soil Conservation Service--preparation of precipitation maps, Department of Planning and Economic Development--economic base study) which will be included in the state water plan.

Water Resources Survey. As reported by the Director, the Board members allocate approximately 10 per cent of their time to water resources survey matters. In 1968, the members reviewed water resource survey progress and, upon staff recommendation, increased the number of personnel employed in the survey department in order to complete the survey by 1972. The Board members are informed of the progress of all county surveys being undertaken and of public reaction to the surveys. The Board's water resources department has informed the Board members of its proposed legislation to update prior surveys and supplement recently completed surveys.

Ground Water. The Director estimates that the Board members spend approximately 10 per cent of their time considering ground water or related matters. Board members are informed of special ground water studies (Lincoln area study) performed by Board personnel and other state and federal agencies and in certain instances have provided funding for the studies. Also, Board members have participated in hearings on the South Pine Controlled Ground Water Area; have issued orders establishing the area and limiting the amount of water which may be withdrawn from the area; and have issued permits to appropriate

ground water in the area. Moreover, the Board members have approved proposed revisions in the ground water code.

Hydrography (Water Measurement). Approximately five per cent of the Board members' time is spent on water measurement duties, according to the Board's Director. The Board members approve and endorse agreements between the U.S. Geological Survey and the Board providing for cooperative stream surveys and approve the number of stream gauging stations and their locations, operated by Board personnel.

Weather Modification. The Director has indicated that the Board members devote approximately one per cent of their time to weather modification activities. The Board members have adopted weather modification rules and regulations; granted exemptions from license and permit fees to state and federal agencies; and established an advisory committee to assist them in administering the weather modification act. (For information concerning the committee see the discussion of the weather modification program on page 80).

River Basins Commissions, Treaties, and Cooperative Agreements. The Director estimates that the Board members spend approximately one per cent of their time on river basin commissions and related matters. The Board members are advised of all progress on cooperative studies with other state and federal agencies, river basin commission studies and multi-state agreements, treaties, and compacts.

The Board and Board members are authorized to perform numerous quasi-judicial functions. The Board is authorized to hold hearings: to determine the rights of respective claimants to water in which the Board owns some of the rights (Section 89-125, R.C.M. 1947); to assess public opinion of the State Water Plan and Inventory (Section 89-132.1, R.C.M. 1947); to designate or modify controlled ground water areas (Section 89-2914, R.C.M. 1947); to ascertain rights to the use of ground water (Section 89-2916, R.C.M. 1947); to determine whether ground water is being used in compliance with the Ground Water Act (Section 89-2926, R.C.M. 1947); to assess public reaction to proposed weather modification activities (Section 89-316, R.C.M. 1947); and to determine feasibility of proposed water conservancy districts (Section 89-3406, R.C.M. 1947).

In many instances the Board has not had an opportunity to exercise its quasi-judicial functions because fact situations have not arisen necessitating their use. There has been no demand for water or water rights owned by the Board requiring a hearing (Section 89-125, R.C.M. 1947) to determine the respective rights of claimants. The state water plan and inventory are not completed and the Board has not had an opportunity to conduct hearings (Section 89-132.1, R.C.M. 1947) designed to assess public reaction to the plan or inventory. The Board has only received four or five applications for weather modification activities and the Board determined that hearings (Section 89-318, R.C.M. 1947) were not necessary as all applications were for research and educational activities. Preliminary surveys and feasibility

studies are being conducted in two proposed water conservancy districts but feasibility hearings (Section 89-3406, R.C.M. 1947) cannot be conducted until the studies are completed. And, the Board has only received one petition for creation of a controlled ground water area. In this instance, the Board conducted a hearing (Section 89-2914, R.C.M. 1947), made findings of fact and created a controlled ground water area. Subsequently, the Board held another hearing and modified its existing order.

As the demand for water increases in Montana, the Board will probably be utilizing its quasi-judicial powers to a greater extent as a shortage of water promises to create activity in all water and related areas.

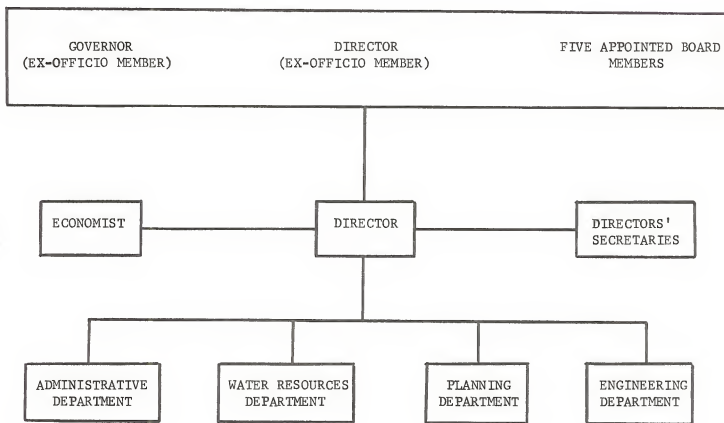
The Board is also authorized to perform certain quasi-legislative functions such as promulgating rules and regulations for carrying out the water conservation policy of the state (Section 89-132, R.C.M. 1947); advancing the state water plan (Section 89-132.1, R.C.M. 1947); providing for administration of the weather modification act (Section 89-314, and 89-318, R.C.M. 1947); and providing for inspection and entry and other matters relating to ground water areas (Section 89-2931, R.C.M. 1947). The Board has only formulated regulations for weather modification activities. It appears to the Executive Reorganization staff that formal rules and regulations would facilitate the administration of many aspects of Montana's water laws.

The activities of the Board may be divided either administratively (according to organizational structure) or functionally (according to program). Administratively, the Board is divided into four departments: Planning, Engineering, Water Resources, and Administration. Functionally, the Board operates with nine programs: Administration, River Basin Commission, Ground Water, Weather Modification, Comprehensive Water Planning (State Water Plan), Engineering, Operations and Maintenance and Hydrography (water measurement), Water Resources, and Field.

The Administrative Department is responsible for the Administrative, River Basin Commissions, and Weather Modification Programs; the Planning Department is accountable for the Comprehensive Water Planning Program; the Engineering Department administers the Engineering, Operation and Maintenance and Hydrography, and Field Programs; and the Water Resources Department maintains the Water Resources and Ground Water Programs.

The Board has submitted the following diagram to illustrate its internal organization.

ORGANIZATION CHART - MONTANA WATER RESOURCES BOARD



Funding and Personnel

Currently, a Director appointed by the Governor (Section 89-103.1, R.C.M. 1947), four department directors, and 60 full time staff members are employed to perform the duties of the Montana Water Resources Board. The Director is the chief administrative officer of the Board and he is empowered to perform all ministerial acts required of the Board by law and by Board member's direction; except that he may not acquire or dispose of water rights or real property or contract for or construct projects without specific authorization from the Board members (Section 89-103.2, R.C.M. 1947).

Total expenditures of the Board for the biennium ending June 30, 1969 were \$2,228,539. This compares with the Board's appropriation for the current biennium of \$2,555,984--an increase of 14 per cent. The following schedule indicates Board expenditures for the four most recent fiscal years, by program and object.

Expenditures, Water Conservation Board - Montana Water Resources Board - 1966-69*

	1967 Biennium Expended		1969 Biennium Expended	
	1966	1967	1968	1969
<u>EXPENDITURES BY PROGRAM*</u>				
Administration	\$103,525	\$114,401	\$92,454	\$78,777
Engineering	65,012	85,077	84,633	86,532
Field	195,318	189,139	496,381	311,176
O & M & Hydrography	68,968	79,116	85,542	83,203
Water Resources	77,981	91,476	197,348	247,968
Ground Water	384	5,393	14,030	37,986
Comprehensive				
Water Plan	-0-	19,468	94,003	211,935
River Basin Commissions	-0-	3,180	52,111	54,419
Weather Modification	-0-	-0-	40	-0-
<u>TOTAL PROGRAMS</u>	<u>\$511,188</u>	<u>\$587,250</u>	<u>\$1,116,542</u>	<u>\$1,111,997</u>
<u>BIENNIAL TOTALS</u>				
		<u>\$1,098,438</u>		<u>\$2,228,539</u>
<u>EXPENDITURES BY OBJECT*</u>				
Personal Services	\$238,594	\$290,749	\$411,974	\$483,732
Operation	257,742	245,358	655,860	591,061
Capital	14,852	51,143	38,708	34,636
Grants	-0-	-0-	-0-	2,568
<u>TOTAL OBJECTS</u>	<u>\$511,188</u>	<u>\$587,250</u>	<u>\$1,116,542</u>	<u>\$1,111,997</u>
<u>BIENNIAL TOTALS</u>				
		<u>\$1,098,438</u>		<u>\$2,228,539</u>

*The expenditure totals for 1966-67-68 were obtained from the Executive Budget. Expenditure totals for 1969 were obtained from the Budget Director's office.

The following schedule indicates appropriations to the Board for the biennium ending June 30, 1971.

Appropriations, Montana Water Resources Board, 1969-71 Biennium

- | | | |
|---|-----------|-----------|
| (1) From the General Fund for: | | |
| (a) Personal services | \$494,292 | \$524,292 |
| (b) Operation and capital | 110,100 | 116,300 |
| (c) Ground water | 15,000 | 15,000 |
| (d) River Basins Commission | 40,000 | 40,000 |
| (e) Water Resources study | 95,000 | 95,000 |
| (f) Statewide and Comprehensive Water plan | 77,000 | 77,000 |
| (g) Sidney Water Users' project | 250,000 | -0- |
| (h) Computer Water Planning Model Item | 25,000 | 16,000 |
| (2) From the Earmarked Revenue Fund, Water Conservation account for: | | |
| (a) Operation and capital | \$214,500 | \$150,000 |
| (3) From the Federal and Private Revenue fund, Water Board account for: | | |
| (a) Field Program and Comprehensive Water Plan program | \$ 98,000 | \$103,500 |

Total Appropriation	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
1969-71 Biennium	<u>\$1,989,984</u>	<u>\$566,000</u>	<u>\$2,555,984</u>

The Board receives matching funds from the federal government (Title III of the Water Resources Planning Act,* Public Law 89-80), to be used in connection with the various areas of the comprehensive framework plans in the Missouri and Columbia River Basins and to help develop the Montana State Plan aimed at estimating and determining ultimate water needs. The Board has indicated that it is eligible and will receive \$8000 in matching funds from the Water and Land Conservation Fund Act, Bureau of Outdoor Recreation administered by the State Fish and Game Department for recreational facilities located on 10 Board projects.

* The act does not require a board or other multi-member body to administer the funds.

Description of Programs

Administration

General. The functions performed under this program are: general management, public information, accounting, legal matters, and records preservation.

General Management. Responsibility for the general management of all Board activities and programs is vested in the Board's Director (Section 89-103.2, R.C.M. 1947) who has employed an Administrative Director to assist him in planning, directing, and coordinating all administrative matters for the Montana Water Resources Board. The Director and his assistant are particularly responsible for the preparation and orderly conduct of meetings; assisting department directors with management and related problems; office management; and personnel management.

As mentioned previously, the Board members meet for two days once a month to formulate Board policy and review the Board's operations. The Director and the Administrative Assistant are responsible for preparation of the monthly agenda and discussions presented to the Board; and, prior to each monthly Board meeting, the Director, the Administrative Director, and the Department directors assemble and prepare the agenda and discussions.

The Director and Administrative Director are responsible for all personnel management. They have developed employee recruiting programs; methods for retaining competent employees; and personnel records systems. More specifically, the Director and the Administrative Director completed a survey to determine the Board's management problems and have improved Board operations by: consolidating Board functions into four departments; preparing an organizational chart indicating administrative lines of authority; preparing position descriptions and job classifications for all Board personnel; improving employee development and training; and issuing policy statements regarding procedures normally employed by Board personnel.

The Director and Administrative Director are also responsible for acquiring, maintaining, and providing for the proper use of Board equipment; written products of the office; and other general management functions.

Public Information. Board public relations are performed by a Public Information Director supervised by the Director, the Administrative Director, and Board members. The Public Information Director is responsible for all public information activities of the Board including press relations, publications, public information and special assignments. The Public Information Director's press relations duties involve preparation and dissemination of general news releases concerning Board meetings and activities, water conservancy districts, contracts and construction projects, and development of the State Water Plan. The Public Information Director also answers specific inquiries from the press, develops special feature programs and maintains continual contact with all members of the working press, radio, and television. His publication duties include the preparation of specifications for bids on all Board publications, actual preparation of numerous reports, and editing all publications developed by other departments. The Information Director is also responsible for publication of the Board's annual report,

portions of the State Water Plan Inventory Series, information concerning the water resources survey, a newsletter circulated to 2,500 persons explaining the Board's objectives, and numerous pamphlets reviewing Board operations and activities. The Information Director's public information and special assignment duties generally involve answering routine inquiries from individuals, agencies, and organizations; writing speeches for the Director and other Board representatives; and coordinating and developing special meetings.

Accounting. Board accounting activities are performed by the Accounting Division of the Administrative Department. The division is responsible for accounting for funds appropriated by the Legislature, and general accounting for all Board departments. The Division prepares the Board's payroll, processes department expenses (approximately 180 claims paid per month), records costs of publications, maintains equipment and supply inventories, and prepares monthly and annual budgets and statements of expenses.

As the Water Resources Board has become familiar with project accounting it aids water users Associations by auditing approximately 180 water development projects, and performing basic accounting functions for numerous projects. In particular, the Division accounts for outstanding construction indebtedness on 23 projects and bills water users proportionately. These funds are remitted to the Board to reduce the principal debt. The Division also bills water users for operation and maintenance costs on 31 projects.

The Division is also responsible for accounting for federal and state funds expended on new project construction, recreational development, and the State Water Plan.

Records Preservation. This duty is carried out by a microfilm supervisor. The supervisor has general responsibility for microfilming all surface and ground water rights and decrees for the entire state. These records are available to the public upon request. Presently, eight counties' water records have been filmed and indexed.

Legal Matters. The Attorney General is authorized to act as the Board's legal advisor and he has issued legal opinions for the Board on several occasions. The Board is also authorized to employ additional counsel with the Attorney General's consent (Section 89-103, R.C.M. 1947) and the Board has employed a part time attorney to provide legal services.

The ultimate responsibility for damages resulting from the operation of projects and water distribution systems has not been adjudicated by the Montana Supreme Court and the Board's attorney spends a great deal of time defending actions in which the Board is named as a co-defendant with local water user's associations. The attorney estimates that he is involved in approximately eight of these actions continually.

The Board's attorney also renders approximately three opinions a month on proposed or previous Board actions; drafts contracts and deeds enabling the Board to acquire property, water rights, right-of-way, and easements; drafts and refiles approximately 40 declarations of intention to store water in 26 counties (refiled every four years); prepares contracts providing for employment of private consultants and for federal cost sharing agreements on studies.

or projects; contacts water users regarding delinquent operation and maintenance or principal payments; and answers private requests for water right or related information.

In addition to providing legal services to the Board, the Board's attorney aids local water user's associations by advising them on contract matters, tort (personal injury or property damage) actions, negotiations with federal agencies, and proposed association activities.

Funding and Personnel. This program is financed by General Fund and Earmarked Revenue Fund appropriations. Administrative expenditures for fiscal year 1969 were \$78,777. The Board employs a Director, and eight additional persons to perform its administrative duties.

River Basin Commissions

General. The Montana Legislature has provided that the Water Resources Board is authorized to negotiate with other states and the federal government in the preparation of interstate compacts or agreements governing the use, distribution, and allocation of the waters of any stream flowing out of or into Montana and that the Board may cooperate with the other states and the United States in making the necessary studies and obtaining the necessary data to prepare such agreements (Section 81-2009, R.C.M. 1947). The Board has established a River Basins Commission program to coordinate its activities with other states, the federal government and Canada through several multi-state or multi-nation commissions, groups, compacts, organizations or agreements.*

The following section of this program description will enumerate the Board's activities in these areas.

Pacific Northwest River Basin Commission. In 1966, the Governors of the states of Idaho, Montana, Oregon, Washington, and Wyoming requested organization of a Pacific Northwest River Basins Commission under the terms of Sub-chapter II of the Water Resources Planning Act of 1965 (Public Law 89-80, 42 U.S.C.A. § 1962b (1970)). Their recommendation was approved by the federal Water Resources Council and the President established the Commission by Executive Order No. 11331 on March 6, 1967. The commission met and organized on April 27, 1967, thus initiating the first of the river basin commissions to be formed under the provisions of the Water Resources Planning Act of 1965.

The Water Resources Planning Act of 1965 provides that the commissions are to: serve as the principal agency for the coordination of federal, state, interstate, local and nongovernmental plans for the development of water and related land resources in its area; prepare and keep up to date a comprehen-

* A number of these compacts, commissions, and agreements have been in existence for a number of years and Water Resources Board's records do not indicate when they were created.

sive, coordinated, joint plan for Federal, state, interstate, local and non-governmental development of water and related resources; recommend long range schedules of priorities for the collection and analysis of basic data and for investigation, planning, and construction of projects; and foster and undertake such studies of water and related land resources problems in its area as are necessary in the preparation of the coordinated joint plan for development of water and related land resources (Public Law 89-80, 42 U.S.C.A. § 1962b (1970)).

The Montana Water Resources Board participates in Commission activities to establish surveillance over the content and direction of the inventory and planning reports to insure that Montana's interests are not overlooked or subjugated to the interests of other states or federal agencies; and to influence the basin reports and inventories to assure their use in preparation of Montana's Water Plan. Currently, five Board employees are directly involved in Commission activities. The Board's Director serves as alternate representative to the Commission, is a member of the Policy Committee, and is State Liason Representative for the Columbia-North Pacific Framework Study. The Board's Engineering Department Director is a member of the Hydrology and Hydraulics Committee and serves on the Flood Control and Hydrology work groups. One Engineering Department employee serves on the Irrigation work group. The Water Resources Department Director serves on the Land and Minerals work group; and the Planning Department Director is a member of the Regional Plan Formulation Task Force and is chairman of the Subregion Plan Formulation Task Force. It is contemplated that additional assignments to standing committees, work groups, and task forces will be made as more detailed studies involving Montana are undertaken.

Montana's participation in Commission activities is financed by general fund appropriations; for fiscal year 1969, Montana contributed \$25,000 to the Commission and supplied approximately \$2,200 in incidental expenses such as travel, communication, per diem, and office supplies.

Missouri Basin Inter-Agency Committee. The Committee was formed by the federal Inter-Agency River Basin Committee in 1945 for the purpose of coordinating and programming state and federal activities in water and related land resource development throughout the Missouri River Basin. Committee membership consists of the Governors of the ten Basin states--Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota, and Wyoming; and representatives of seven federal departments--Army, Agriculture, Commerce, Health, Education and Welfare, Interior, Labor and the Federal Power Commission.

In 1964, the Committee created a Standing Committee on Comprehensive Basin Planning to prepare a comprehensive framework study of the Basin which would provide guidance for future multi-purpose development of the water and related land resources in the Basin.

The Montana Water Resources Board and its predecessor, the State Water Conservation Board, have participated in Committee activities to influence the content and direction of study inventories and planning reports to insure that the studies include Montana's interests and to suggest uniform report procedures to enable the Board to utilize the information in formulation of

the State Water Plan.

As the majority of the Committee's study programs and reports have been completed, the Water Resources Board's involvement in Committee activities is minimal. Presently, only a Water Resources Board member (Governor's Representative to the Missouri Basin Inter-Agency Committee) and the Board Director are actively participating by attending Committee meetings. These persons will probably continue to attend Committee meetings to keep abreast of progress on reports and updating of reports.

Presently, Montana's contribution to Committee activities is approximately \$3,000 a year for per diem and travel expenses for persons attending Committee meetings.

Western United States Water Plan. This study, designed to develop a water plan for the Western United States, is in the formulation stage and the initial meeting of interested state and federal agencies was held in Denver in September of 1970. The study, authorized by the Colorado River Basin Project Act (Public Law 90-537 43 U.S.C.A. § 1501) is to be completed by representatives of 11 Western states and numerous federal agencies by 1977. Although the Water Resources Board is not participating in the study at this date, Board personnel have indicated that the Board will probably participate in the study in the immediate future and will provide part-time employee contributions to provide Montana's inputs for the study.

Western States Water Council. The Western States Water Council was formed on August 3, 1965 by resolution of the Western Governor's Conference to foster effective cooperation among Western States in planning for programs leading to integrated development of water resources by state, federal, and other agencies. The Governors from Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming are ex officio members of the Council. Each member state has not more than three representatives appointed by and serving at the pleasure of the respective Governors. Montana's Governor has appointed a Water Resources Board member and the Director of the Water Resources Board to the Council. The Board member is a participant on the Council's Water Policy and Legislative Committee and the Board's Director is a member and chairman of the Council's Water Resources Committee.

The entire Council normally meets four times a year and committee meetings are held more often, depending upon work demands.

The Council's emphasis has been in areas in which the states shared a common interest. In 1968, the Council concentrated on matters concerning water quality, state-federal water rights, acreage limitation, water resource project evaluation, and wild and scenic rivers; in 1969, the Council transferred its emphasis to funding of water development projects, environmental quality, and the Water Resources Planning Act of 1965.

In fiscal year 1971, Montana contributed \$7,500 to finance Council activities.

Missouri River Main Stem Reservoir Control Committee. The Committee was formed by the mutual agreement of the Missouri River states and several fed-

eral departments and agencies. Presently, the Committee is composed of representatives from the Missouri River states and representatives from the following federal agencies and departments: U.S. Army Corps of Engineers, Interior, Agriculture, Health Education and Welfare, Commerce, Transportation, Housing and Urban Development, Federal Power Commission, and Labor. The Committee meets twice annually to compile information and consider the effects of storage capacities, runoffs, and quantities of water accumulated in five major reservoirs on Missouri River water levels.

The Director of the Water Resources Board and his predecessor the Director of the Water Conservation Board have automatically participated in Committee activities since its inception.

Montana participates in Committee activities to insure that the storage system is operated efficiently to prevent the Missouri river from flooding or becoming depleted in Montana.

Columbia River Water Management Committee. The Committee is the Columbia River Basin drainage counterpart of the Missouri Main Stem Reservoir Control Committee. The five Columbia River states and numerous federal agencies and departments investigate major Columbia River storage reservoirs and their effects upon Columbia River water levels. The Water Resources Board's Director participates in these investigations to insure adequate Columbia River water levels in Montana.

Missouri River States Committee. The Committee was formed by the Governors of the ten Missouri River states to evaluate federal river management programs and their effects upon the individual states. The Committee provides a forum where the Missouri River states may solidify their opinions on federal Missouri River control projects and communicate these opinions to the various federal agencies involved in Missouri River projects. The Governor designates Montana's representative to the Committee, and has normally designated the Water Resources Board's Director to represent Montana.

Yellowstone River Compact. The Compact is an agreement among Montana, Wyoming, and North Dakota (non-participating) providing for the equitable distribution of the waters of the Yellowstone, Big Horn, Tongue, and Powder Rivers between Montana and Wyoming. A Compact Commission; composed of one representative from Montana and one representative from Wyoming, appointed by the Governors of the respective states, and one representative selected by the director of the U.S. Geological Survey, was established to administer the Compact provisions (Section 89-903, R.C.M. 1947).

The Director of the Montana Water Resources Board was appointed by the Governor as Montana's representative on the Commission, and the Director has estimated that he spends approximately one week a year on Compact matters.

The work of the Commission, which to date has been primarily concerned with the collection of hydrologic data, has been financed through cooperative agreements whereby Montana and Wyoming each bear one-fourth of the cost and the remaining one-half is borne by the United States. Commission expenses for the fiscal year ending June 30, 1969 were \$9,000. Thus Montana contributed \$2,250 for Commission activities.

International Stream Measurement. The Boundry Waters' Treaty of 1909 (36 Stat. 2448) between the United States and Great Britian provided for rights to boundary waters between the United States and Canada. An International joint Commission was created with jurisdiction over cases involving the use, obstruction, or diversion of international boundary waters. The U.S. Geological Survey (in cooperation with the Board), in behalf of the United States, and the Department of Mines and Technical Surveys, in behalf of Canada, conduct stream measurements on their respective sides of the international boundary. Allocation of water to the two countries is made in accordance with an order of the International Joint Commission.

The Board's Director makes field inspections of the international streams and meets with Canadian officials for the purposes of determining reduced flows to Montana and reaching mutual agreement on procedures for apportioning international waters. Board expenditures in this area vary from \$1,500 to \$3,000 annually.

Funding and Personnel. Board personnel from nearly every department are involved in phases of this program. Program expenditures are provided for by General Fund appropriations and for fiscal year 1969 were \$54,419.

State Comprehensive Water Plan

General. The Montana Water Resources Act of 1967 (Section 89-101.2, R.C.M. 1947) stated that "The public policy of the state is to promote the conservation development, and beneficial use of the state's water resources to secure maximum economic social prosperity for its citizens." The Act designated the Montana Water Resources Board as the state agency to "...co-ordinate development and use of the water resources of the state so as to effect full utilization, conservation and protection of its water resources" (Section 89-101.2, R.C.M. 1947); the Board was also charged with the duty of gathering information relating to Montana's water resources and formulating a comprehensive coordinated multiple use water plan (Section 89-132.1, R.C.M. 1947). The Board incorporated these statutory duties into a program entitled the State Comprehensive Water Plan and is attempting to assess and formulate uses for Montana's water resources before the moratorium on interbasin water transfers provided by the Colorado River Basin Project Act (P.L. 90-537, 43 U.S.C.A. 31501) is ended in September of 1978.

Description. The legislative intent regarding the Plan's content is enumerated in Section 89-132.1, R.C.M. 1947 which provides that "The state water plan shall set out a progressive program for the conservation, development, and utilization of the state's water resources, propose the most effective means by which these water resources may be applied for the benefit of the people with due consideration of alternative uses and combinations of uses." The Board has developed a four phase water and related land resources plan which includes:

- (1) An inventory phase which will result in accumulation of detailed knowledge of the resource and present management and use of it.
- (2) A water requirements and projection phase, the results of which, when balanced against the inventory, will allow the Board to estimate surpluses and deficiencies and to project and recommend developments for the

future. Concentration of initial work of this phase will be on the early period up to 1980 for which relatively realistic projections can be made. However, the Board will attempt to make some projections for the years 2000 and 2020 in order to coordinate with planning being performed in the other Western states.

(3) A phase involving recommended developments to be accomplished between the present and 1980 and by the years 2000 and 2020. These recommended developments will be conditioned not only by the findings of the inventory and requirements phases of the State Water Plan; but by the coordination of these findings with the work of the other planning agencies, especially the Comprehensive Statewide Plan now being initiated by the State Department of Planning and Economic Development.

(4) An implementation phase*, as mentioned previously, the Board's Planning Department is responsible for implementing the State Comprehensive Water Plan program. The program is presently in Phase I and the beginning stages of Phase II. Phase I is scheduled for completion by August of 1971. Basic data included in Phase I studies is obtained from numerous state and federal agencies, river study compacts and commissions, and the Board's Water Resources and Engineering Departments. Studies completed under Phase I are published and furnished to interested state and federal agencies and sold to private individuals or groups. The following Phase I inventory studies have been published:

Inventory Series Report No. 1 --Directory of State of Montana, Federal Agencies, and Private Groups Active in the General Field of Water Resources (October, 1968).

This publication is a directory of state and federal agencies and private organizations engaged in water resource planning, research, management, and development. The directory includes all statutory and non-statutory state agencies, active irrigation districts, private ditch companies and associations, municipal water supplies, federal agencies, and river basin commissions and agencies active in water resource planning and development.

Inventory Series Report No. 2 --Water Resources Programs Conducted by Government Agencies in Montana (December, 1969).

This publication enumerates all governmental agencies conducting programs in water resources work in Montana and includes summaries of the nature, scope, cost, and many years involved in the programs. The purpose of the publication is to determine the areas of endeavor, the disciplines, and functions in which water resources work is being accomplished; and to determine which governmental agencies are completing the work, and the cost of the work, and estimating how efficiently it is being coordinated.

Inventory Series Report No. 3 --Montana Register of Dams (October, 1968).

This publication enumerates all known man-made works for the storage and control of surface waters having a usable or total storage capacity of 50 acre feet or more. The study includes statistics such as the name of the works, year of completion, location, physical description of the dam and spillway, and purpose of the project.

* State Comprehensive Water Plan phases were obtained from the Montana Water Resources Board Inventory Series No. 4: Montana Water Resources and Planning (1968).

Inventory Series Report No. 4 --Montana Water Resources and Planning (October, 1968)

This publication contains general information on Montana's water resources together with a proposed framework for planning for its optimum future use. The study includes a summary of Montana's water resources, water utilization and needs, and a proposed water resource plan framework.

Inventory Series Report No. 5 --Montana Water Laws: A Resume (November, 1968).

This publication contains a summary of the more important laws governing the use of water in Montana. It includes discussions of the appropriation doctrine, acquisition of water rights, size of water right, loss of water rights, basic ground water law, weather modification laws, water districts in Montana, and compacts and treaties influencing Montana's water.

Inventory Series Report No. 6 --Catalogue of Stream Gauging Stations in Montana (October, 1968).

This publication contains summaries of records of 457 stream gauging stations located in Montana. The data presented in the study has been compiled for each of the three major Montana river basins: Hudson Bay Basin, Columbia Basin, and the Missouri Basin. The study also includes schematic illustrations of the drainage systems for the respective river basins and a graphical diagram indicating the origin and movement of water for each major tributary in Montana.

Inventory Series Report No. 9 --Summary of Potential Projects in Montana (June, 1969).

This publication includes a tabulation of potential water resource projects in Montana which have been investigated by various state and federal agencies and local groups. The "summary" contains 748 proposals for potential storage dams, pumping and diversion projects.

Inventory Series Report No. 10 -- Bibliography of Montana Water Resources and Related Publications

This bibliography lists all known printed information, both published and unpublished, relating to water resources in Montana.

The following Phase I inventory studies are in various stages of completion, but are expected to be completed by August, 1971:

Inventory Series Report No. 7 --Economic Aspects of Water Development.

This publication will enumerate past experiences in water development and projections. It will include cost-benefit ratios on completed projects and unit values of water in Montana and surrounding states.

Inventory Series Report No. 8 --Patterns of Management and Administration.

This report will concentrate on past uses of water and administration of water resources. The study will include Water Resources Board, private users, and federal agencies experienced with water uses. The study may also include a discussion of water laws and the water code as restraints to management.

Inventory Series Report No. 11--Surface Water Atlas.

This publication will indicate drainage basins in Montana and will divide the state into hydrological units. The study will also indicate power lines, reservoir sites, presently irrigated lands, and Fish and Game Department access and recreation sites.

Inventory Series Report No. 13 --Inventory of Water Use.

This report will list water use by type and area throughout the state. Municipal and industrial uses will be emphasized.

Inventory Series Report No. 14 --Inventory of Related Land Resources.

This report will enumerate land classifications for areas of the state and will specifically define types of potentially irrigatable lands and their locations.

Inventory Series Report No. 15 --History of Water Development.

This study will include a summary of the development of water uses from mining to agricultural and industrial and municipal uses in Montana. The study will also include a history of state and federal agencies' participation in Montana's water development.

Inventory Series Report No. 16 --Ground Water.

This study will indicate ground water locations and related material for the entire state.

While completing Phase I of the Plan, the Department is beginning Phase II by scheduling panel discussions in the Columbia region (Hamilton, Missoula, Plains, Polson, Kalispell, and Swan Lake) to assess local water needs. At these meetings interested local citizens, the Board's Planning Department personnel, and representatives of federal agencies involved in water resources are attempting to determine water requirements for the local areas. Planning Department personnel indicate that the discussions have been very successful and that similar discussions will probably be scheduled for other areas of the state.

Presently, a director, two planning analysts, two soil scientists, three draftsmen, and two tabulation specialists are employed in the Planning Department to complete Phase I and begin other phases of the Plan. The director and the planning analysts are responsible for all planning phases and are presently involved in developing rapid access information storage and retrieval system for water rights, land classes, stream flow, water quality, precipitation, run off, and other pertinent information. The system will be compatible with systems used by the University System Units, the U.S. Geological Survey, and the Montana Bureau of Mines and Geology. The soil scientists, draftsmen, and tabulation specialists are primarily involved in completing the land classification portion of Phase I. They are performing a reconnaissance survey (general overview) of all land in the state and all irrigable and non-irrigable land is being tabulated and mapped on a county by county and drainage basin basis.

It must once again be emphasized that Phase I of the Plan is an inventory stage with the purpose of gathering and classifying information pertaining to Montana's water and related land resources for utilization in later Plan phases. Therefore, the Board's Planning Department personnel partici-

pate in many state and federal studies and the Department receives information necessary for subsequent planning phases from numerous state and federal agencies. Presently, Planning Department personnel participate in the Columbia North Pacific Region Framework Study, Type IV Studies, the Missouri Basin Comprehensive Framework Study, water quality studies, and numerous cooperative studies conducted by state and federal agencies. The following chart indicates percentages of time spent by Planning Department personnel on basic water planning and individual studies, the results of which will be included in the State Water Plan.

Montana Water Resources Board, Planning Department -- Percentage of Time Spent by Department Personnel on Basic Water Planning and Individual Studies

Study	Director	Planning Analysts	Land Classifiers
State Comprehensive Water Plan	80%	90%	85%
Columbia North Pacific Region Framework Study	10%	5%	8%
Type IV Studies	5%	5%	7%
Missouri Basin Comprehensive Framework Study	2%		
Water Quality Studies	3%		

Although the River Basin Commissions and framework studies have been discussed in earlier portions of this report, special reference to certain studies will be made in the succeeding paragraphs to illustrate the importance of these studies in formulation of the State Water Plan.

The Columbia North Pacific Region Framework Study is the major planning activity of the Pacific Northwest River Basin Commission. The study is a joint effort of numerous resource agencies in the Pacific Northwest states and approximately 20 federal agencies to investigate water and related land resources in the Columbia North Pacific Region. The study is scheduled for completion by July 1, 1971 and will include investigations of the region's history, land forms and topography, geology, climate, natural resources, and population characteristics. Water Board employees are members of a number of special committees established to consider these criteria. The Board's Director is a member of the Policy Committee and is state liaison representative for the study; the Board's Engineering Department Director is a member of the Flood Control and Hydrology work groups and the Hydrology and Hydraulics Committee; the Board's Water Resources Department Director is a member of the Land and Minerals work group; and the Board's Planning Department Director is a member of the Regional Plan Formulation Task Force and is chairman of the Subregion Plan Formulation Task Force. All information produced by the study will be available to the Board for inclusion in the State Water Plan.

The Missouri River Basin Comprehensive Framework Study is similar to the Columbia North Pacific Region Framework Study mentioned in the preceding portions of this report. A Committee known as the Missouri Basin Inter-Agency Committee was formed in 1945 to interchange information and coordinate the activities of the federal and state governments in the planning and development of water and related land resource throughout the Missouri River

Basin. In 1964, the Committee began a comprehensive framework study of the Basin to provide guidance for future multi-purpose development of the water and related land resources. Water Board personnel have indicated that the study is nearly completed and that the Board's Planning Department is utilizing the research and information gained from the study in preparation of Montana's water plan.

The Type IV studies are comprehensive studies, sponsored by the U. S. Department of Agriculture and conducted by the Soil Conservation Service and Economic Research Service, to assess water resources and related land resources and to propose developments in river basin areas. Presently, Type IV studies are being conducted in the Stillwater, Clarksfork, and Big Horn River Basins and applications for studies in other areas of the state are pending approval. All state agencies belonging to the Council on Natural Resources and Development (Section 82-3001, R.C.M. 1947) are participating in the studies; and the Water Resources Board's function is to coordinate the various inputs received from the agencies to insure that all projects and plans are included in the studies, and subsequently in the State Water Plan.

In addition to the aforementioned cooperative studies, the Board's Planning Department intends to participate in similar studies in the near future. The Department has applied to the Federal Water Quality Administration for planning grants to finance a cooperative water quality planning study with the Montana Fish and Game and Health Departments. Also, the Planning Department will soon be participating in the Western United States Water Plan sponsored by the Department of the Interior and Bureau of Reclamation. This plan is scheduled for completion by 1977 and will include water plans for the entire Western United States.

In addition to participation in the cooperative studies, the Planning Department is cooperating with the following state and federal agencies to insure that Montana's water resources are not excluded from other planning activities; and to accumulate information for inclusion in the State Water Plan:

Montana Fish and Game Department:

The Fish and Game Department cooperates with the Planning Department in establishing water needs for fish and wildlife and recreation. Also, the Planning Department attempts to incorporate big game winter range and migration feeding patterns into its project developing planning.

Montana State Department of Health:

The Health Department is supplying water quality data to the Planning Department for inclusion in the State Water Plan.

Department of Planning and Economic Development:

The Department of Planning and Economic Development and the Board's Planning Department are cooperating on an economic base study being completed by the Bureau of Business and Economic Re-

search at the University of Montana. Also, the Department of Planning and Economic Development is conducting a sewer and water study and is utilizing a Mark IV data acquisition file and both these items will be incorporated into state water planning.

Office of the State Forester:

The State Forester supplies data on state forest lands to the planning Department and also participates in Type IV studies.

Montana State Highway Department:

The Highway Department and the Board's Planning Department discuss the impact of highway development upon Montana's water resources.

State Department of Lands and Investments:

The Department of Lands and Investments supplies information on state lands to the Board's Planning Department for inclusion in Type IV studies. The Planning Department reciprocates by evaluating the agricultural possibilities of state lands.

State Soil Conservation Committee:

The Committee participates by supplying data on soil for inclusion in Type IV studies. Also, the Committee cooperates in small watershed planning under Public Law 566.

Soil and Water Conservation Districts:

The districts supply data to the Board's Planning Department on water and related land resources in their areas.

Montana Bureau of Mines and Geology:

The Bureau is studying Montana's groundwater and is attempting to program all published and unpublished data relating to groundwater for computer operations. The Bureau also evaluates natural resource potentials for designated areas.

Montana State University:

The Engineering Department of the University is developing a computer simulation model of the Yellowstone River which will be used by the Planning Department as a planning tool and will be adapted to other river basin areas.

Montana Cooperative Extension Service:

The county agents and the Extension Service schedule meetings for the Planning Department to aid the Department in determining water needs for the county areas. The Planning Department reciprocates by supplying information on potential projects and locations.

Montana Universities Joint Water Resources Research Center:

The Center is completing projects in the following areas: hydrologic and related studies; economic, social and legal studies; ground water resources studies; water, soil and plant relations studies; and water quality studies. The Center is also developing a computer model for the State Water Plan.

Department of the Army-Corps of Engineers:

The Corps is investigating several areas in Montana for flood control purposes and is also involved in the river basin studies. The Board's Planning Department receives the studies when they are completed.

U. S. Department of Agriculture:

Farmers Home Administration - - The F.H.A. financed the sewer and water study being completed by the State Department of Planning and Economic Development. The results of the study will be included in the Water Board's planning efforts.

Forest Service - - The Forest Service supplies information to the Board's Planning Department on Forest Service lands. The Service is also involved in watershed management on forest lands and supplies information from its stream measurement stations.

Soil Conservation Service - - The Service supplies basic information for Type IV studies and has completed a mountain area precipitation map which was utilized in the hydrologic atlas.

U. S. Department of Commerce:

Weather Bureau - - The Board's Planning Department receives annual precipitation and stream forecasts from the Weather Bureau. These studies are very important in determining water yields.

Federal Power Commission:

The Board's Planning Department relies upon the Commission for information relating to possible power supplies. Also, the Commission assesses needs for additional power sites and issues permits if it determines that the power sites are necessary.

U. S. Department of the Interior:

Bureau of Indian Affairs - - The Bureau supplies information to the Board's Planning Department relating to developments on Indian lands.

Bureau of Land Management - - The Bureau supplies information to the Board's Planning Department on all B.L.M. lands.

Bureau of Outdoor Recreation - - The Bureau forecasts recreational needs which are incorporated into the State Plan.

Bureau of Reclamation - - The Bureau is funded to assist the Board's Planning Department develop the State Plan. The Bureau is presently studying water availability in Western Montana. The Bureau also supplies information on soils to the Planning Department.

Bureau of Sport Fisheries and Wildlife - - The Bureau supplies information on fish and wildlife needs which will be incorporated into the State Plan.

Geological Survey - - The Board's Planning Department is utilizing the Survey's Stream flow records and water quality records for state planning.

Water Resources Council - - The Council is responsible for federal funding under P.L. 89-80 which provides federal funds for the Water Plan. All plans, applications and grants are processed by the Council. The Council also sponsors an annual meeting which is attended by state and federal officials involved in water resources.

Funding and Personnel:

The State Comprehensive Water Plan Program is financed by General Fund appropriations and federal funds received by virtue of the Water Resources Planning Act of 1965 (P.L. 89-80). Since 1968, the Board has received approximately \$53,000 per year in federal funds for water plan expenditures. Program expenditures for fiscal year 1969 were \$211, 935. The Board employs a Director and 11 persons in the Planning Department to complete the program.

Engineering, Operation and Maintenance and Hydrography, and Field

General. The Engineering Department is responsible for the engineering, operation and maintenance and hydrography, and field programs. Staff research has indicated that the three programs are interrelated to such an extent that a discussion of the Engineering Department's operations is more meaningful than descriptions of the separate programs. Therefore, this section of the report will discuss department operations rather than program descriptions.

As mentioned previously, the Water Resources Board's predecessor, the State Water Conservation Board, was created in 1933 by a special Legislative session (Section 89-103, R.C.M. 1947, amended by Section 89-103, R.C.M. 1947, Laws of Montana 1967, CH. 158, Section 4) to encourage public works and to reduce unemployment and thereby assist in the national recovery and promote the public welfare. Broad powers were granted to the Water Conservation Board allowing it to cooperate and enter into agreements with all federal and state agencies; and to investigate, survey, construct, operate and maintain, and finance the construction of water conservation

projects either through funds appropriated to it by grants or by the sale of water conservation revenue bonds. The Board immediately began a "crash" program of assembling and training engineers and other personnel for dam and canal building and began submitting applications for funding. Projects were financed by the Public Works Administration, the Reconstruction Finance Corporation, state appropriations, and government "make work" programs in which the Board assumed ownership of the project and acted as sponsor in providing funds. The Board constructed a total of 181 projects including 141 dams and reservoirs with a storage capacity of 438,017 acre feet and 815.8 miles of canals permitting the use of 260,563 acre feet of direct stream flow. After construction, the Board retained title to the projects and rights of way but allowed local water users associations executed water purchase contract to repay project construction and engineering costs.

The Water Conservation Board's construction activities were gradually reduced by limited funds and higher construction costs and the Board constructed its last major project in 1960.

Although the Water Conservation Board's successor, the Water Resources Board, was granted all the Water Conservation Board's powers, it has not constructed any major projects. The Board's Engineering Department has transferred its emphasis from construction to providing engineering services to local groups and water users associations, assisting in the maintenance of previously constructed projects, accumulating stream flow data, conducting annual maintenance inspection, and operating the Daly ditch system.

Description. Local residents interested in water development and conservation may request data and engineering services on project feasibility and development from the Engineering Department. Upon receipt of such a request, the Department reviews all data from its files, obtains information from other state and federal agencies (U. S. Geological Survey, Bureau of Reclamation, Army Corps of Engineers, Farmers Home Administration, Montana Fish and Game Department, Department of Lands and Investments) and makes necessary preliminary field surveys to compile a preliminary report for the proposed project. This report is submitted to the local group for its approval. If the proposal is acceptable to the local group and sufficient interest is shown to warrant construction, the Engineering Department provides detailed engineering drawings, contracts, and construction supervision necessary to develop the project. In the last five years, the Engineering Department has conducted preliminary reports on 13 proposed projects and has completed detailed study reports, contracts, and construction supervision on three projects. In conjunction with preliminary reports and detailed studies, the Engineering Department has furnished engineering services on five or six projects.

In addition to providing engineering services for proposed projects, Engineering Department personnel attend meetings of water users associations and local groups interested in water conservation. They advise and offer assistance on matters such as: operation and delivery of water, improvements, structures, project finances, irrigation techniques, and organizational structure.

The Engineering Department also assists local residents in establishing water conservancy districts as provided by the 1969 Legislature (Sections 89-3401 through 89-3449, R.C.M. 1947). Water conservancy districts are political sub-divisions of the state which must contain at least \$100,000 in taxable valuation (Sections 89-3403 and 89-3408, R.C.M. 1947). The districts may be organized for the following purposes: preventing and controlling floods, erosion and sedimentation; providing for regulation of streamflows and lake levels; improving drainage and reclaiming wet or overflowed lands; promoting recreation, conserving and developing water resources and related lands, and forest, fish, and wildlife; and providing water for industrial, domestic, and municipal and livestock use.

To establish a water conservancy district, an interested person living within a proposed district completes a written request to the Water Resources Board for a preliminary survey of the proposed district. The Board conducts the survey and transmits it to the applicant. The applicant requests the Board to hold a hearing to determine if the proposed district is feasible, desirable, and consistent with the State Water Plan and the Board must hold the hearings within 61 days after receiving the request. After the hearing, the applicant requests the Board to prepare a detailed feasibility study. If the Board determines that the district is feasible, it prepares the report and files a petition with the District Court, requesting organization. Upon receipt of the petition, the Court gives legal notice and conducts a hearing on the petition for organization. If the Court determines that the petition should be granted it makes an order fixing the time and place for an organizing election and gives public notice of the election. Persons who are real property taxpayers within the proposed district are entitled to vote in the election. If the election returns are favorable, the Clerk of Court transmits copies of the election results and Court decree forming the district to the Secretary of State, the Water Resources Board, and the County Clerk and Recorder of each County having lands within the district.

No conservancy districts have been created to date but the Board anticipates that hearings and elections will be conducted in the near future. Presently, water conservancy district preliminary surveys and feasibility studies, financed by Water Resource Board funds and prepared by private engineering firms, are being completed in North Central and East Central Montana and a study is being contemplated for the Missouri Headwaters area. Although the Engineering Department has not completed the actual studies, it has established study goals, drafted the consulting contracts, and acted as liaison between local persons attempting to establish the districts and the consulting engineering firms.

The Engineering Department conducts annual maintenance inspections and periodic safety inspections of water storage structures and recommends necessary maintenance procedures to local water users associations. The Department conducts approximately 30 inspections of projects a year and normally advises that maintenance is necessary on 15 projects. Maintenance work may be completed by the Engineering Department, private contractors, or the local water users associations. If the maintenance work requires a great deal of capital outlay and construction, the work is completed by a private contractor. In these instances, the Engineering Department furnishes

basic engineering data, formulates construction performance contracts and supervises the actual construction. The Department supervises private contractors on approximately 3 projects a year. Projects requiring minimal capital outlays and modest construction are normally undertaken by the Engineering Department. In 1969, the Department actually completed construction on 12 projects.

In addition to maintenance and safety inspections on projects operated by waterusers associations, the Engineering Department is responsible for inspection, operation, and maintenance of the Daly irrigation system. This irrigation system was established and operated by the Daly estate at Hamilton until the system began to decay. In 1942, the system was transferred to the Water Conservation Board. The Board acquired rights of way and water rights; and in return covenanted to supply water to local water users. The water users agreed to pay operation and maintenance expenses to the Board and executed water purchase contracts to repay the Board for rehabilitation expenses incurred in renovating the project. The Water Resources Board has assumed the Water Conservation Board's obligation to operate this system and has established a division of the Engineering Department at Hamilton employing eight persons to maintain and operate the project.

Finally, the Water Resources Board is charged with the responsibility of collecting information on the flow of streams and the measurement of water in the state (Section 89-851 and 89-909, R.C.M. 1947). This responsibility is met through a cooperative water measurement program with the Water Resources Division of the U. S. Geological Survey and by the Engineering Department's operation of stream gauging stations on streams in Montana and two Engineering Department hydrographers operate 47 stations located on the Board's major projects. These stations record annual, low or peak stage measurements of stream flows and air and water temperatures. Data from the stations is compiled yearly and utilized in water project management and incorporated into the state water plan to determine historical water flows.

Funding and Personnel. The Engineering, Operation and Maintenance and Hydrography, and Field programs are funded by General Fund appropriations and water user payments to the Earmarked Revenue Fund. The Board employs a director and 17 full time employees to complete the programs. Total expenditures for these programs in fiscal year 1969 were \$480,911. Of this amount \$86,532 was for the Engineering program, \$311,176 for the Field program, and \$83,203 for Operation and Maintenance and Hydrography.

Water Resources Survey.

General. The Water Resources Board's predecessor, the Water Conservation Board, was empowered to make surveys of streams and the works directing therefrom. The survey was to include the measurement of stream discharge, the carrying capacity of the various ditches and canals, an examination of the irrigated lands and an approximate measurement of the lands irrigated from the ditches and canals, and other information essential to the proper understanding of the relative rights of interested parties (Section 89-851, R.C.M. 1947).

The Water Conservation Board interpreted the statute as authorizing a county by county survey of Montana's water rights and their uses and began a county by county survey in 1943. The purpose of the survey, which has been carried on by the Water Resources Board, is to: catalogue by county all recorded appropriations, decrees, and use rights in the Board's offices; to map the lands upon which the water is being used; to provide water rights information to the public and state and federal agencies; and to record a complete inventory of perfected water rights in Montana in the event there is a need to defend these rights against encroachments of downstream states or Canada. The results of the survey will be included in the State Water Plan.

Because surface water rights in Montana were recorded in county courthouses and were exceedingly complex, the Board did not have an adequate staff to complete the survey in a reasonable time and only one or two counties were completed annually.

In 1967, the Montana Water Resources Board assumed the duties of the Water Conservation Board and the newly created Board, acting through the Water Resources Department, began an accelerated water resources survey program. The Board hired and trained a number of new fieldmen and draftsmen to complete all of the survey work by 1972.

The increase in personnel permitted an increase in the number of county surveys made and county reports published. During fiscal year 1969, surveys were completed and reports published for five counties: Liberty, Toole, Glacier, Mineral and Sanders. During fiscal year 1970, surveys were completed in Prairie, Dawson, and Richland counties. Publications concerning surveys of these counties will be available by the end of the 1970 calendar year.

Description. To comprehend the methods employed in compiling water rights information in a county by county survey, a brief resume of Montana's surface water laws is necessary.

The early settlers in Montana brought the doctrine of prior appropriation with them and applied it to Montana waters. This doctrine permits diversion and diminution of streams on a first in time--first in right basis. The Legislature has limited the doctrine by providing that

no right may be acquired on a stream without diversion of water and its application to a beneficial use (Sections 89-802 and 89-803, R.C.M. 1947). To acquire a water right, the appropriator, prior to diverting the water, must post a notice at the intended point of diversion and file a copy of the notice within 20 days in the County Clerk's office in the county in which the appropriation is being made (Section 89-810, R.C.M. 1947). Construction of the means of diversion must begin within 40 days of the posting and continued with reasonable diligence to completion (Section 89-811, R.C.M. 1947). However, the Montana Supreme Court has ruled that an appropriator who fails to comply with the previously mentioned statutes may still acquire a water right by completing the ditch, actually diverting the water, and applying the water to a beneficial use. This water right will be valid against everyone, except an appropriator who complies with the statutes before the first claimant has applied the water to a beneficial use (Vidal v. Kensler, 100M 592, 595, 51 P. 2d 235).

When the demand for the waters of a stream become greater than its supply, a suit to determine the rights and priorities of each user is usually begun. The Judge of the District Court then examines all of the claims and issues a decree establishing priority of the right of each water user and the amount of water he is entitled to use. After the decree has been issued, the stream is then termed an adjudicated stream (Section 89-815, R.C.M. 1947).

The surveys presently being completed by the Board are separated into two parts. Part one is entitled the "history of land and water use on irrigated areas" and typically includes discussions of: the counties' history and organization, climate, potential irrigation development, crops and livestock, data from stream gauging stations, locations of dams and reservoirs, groundwater information, economic mineral deposits, soil and water conservation districts, snow surveys, fish and game, national forests, summaries of irrigated lands by river basins, irrigation projects, and appropriations and decrees by streams. Part two is a series of maps indicating all irrigated areas in the county and designating the sources of water supply.

Information contained in Part I and Part II of the reports is obtained from county courthouse records, individual contacts with landowners, and extensive field surveys.

The material of foremost importance in the survey is the information relating to water rights and actual uses of the water. To compile this information three or four resource survey technicians visit the county Clerk and Recorders and Clerk of Courts offices and microfilm all recorded appropriations, decrees, and deeds specifically transferring water in the county. The technicians also gather land ownership records, articles of incorporation of ditch companies and other legal documents relating to the distribution and use of water. These records are then transferred to the Board's Helena office and classified. Aerial photographs are taken of the entire county and are sectionized by references to Government Land

Office Survey Plots, plane table surveys, county maps, and records of the U.S. Geological survey. The resource technicians then visit the actual landowners and plot all water rights to the place of actual or intended use on the land. The technicians also inquire whether the landowner is claiming any other water rights than the ones filed in the courthouse. This information is returned to Helena, tabulated and transferred to maps indicating irrigated areas in the county and designating the sources of supply.

Board personnel have indicated that the surveys have required about one and one half years to complete per county. With the expansion of technicians (approximately 12 persons are performing field surveys), seven or eight surveys are being completed concurrently and the entire state should be completed in the early 1970's.

The Board is continually updating its information on counties which have been surveyed and collecting information on counties which are proposed for survey. The 1967 Legislature aided the Board by providing that after July 1, 1967, the County Clerk and Recorder must forward a copy of any instrument of water appropriation or instrument transferring any water appropriation to the Board (Section 89-813, R.C.M. 1947). These instruments are immediately filed in the Board's records and provide an up to date information on water rights in any Montana county.

Many requests for material contained in the surveys and supplemental information from the Board's files are received from private persons, corporations, soil and water conservation groups, water conservancy districts, and state and federal agencies. The materials are also necessary for the proper determination of water rights in District Court actions and the Board's personnel are requested to testify in these actions approximately twice a year.

Funding and Personnel. The Water Resources Survey Program is financed by general fund appropriations. Program expenditures for fiscal year 1969 were \$247,968. The Board employs a director and 24 persons in the Water Resources Department to discharge its survey duties.

Ground Water

General. In 1961, the Legislature became concerned with conserving and preserving ground water* and passed a bill providing for the appropriation and regulation of ground water in Montana (Sections 89-2911 through 89-2936, R.C.M. 1947). The bill became effective on January 1, 1962, with the State Engineer of Montana designated as the "administrator" of the act. However, as mentioned previously, the 1965 Legislature abolished the

*Ground water can be defined as fresh water under the surface of the land, including the water under the bed of any stream, lake, or other body of surface water.

office of the State Engineer and transferred his duties to the State Water Conservation Board; and the 1967 Legislature abolished the State Water Conservation Board and transferred its functions to the Montana Water Resources Board. The Montana Water Resources Board through the Water Resources Department is presently the "administrator" of the Ground Water Act and performs such functions such as compiling ground water appropriations, establishing and regulating controlled ground water areas, regulating wells, and completing inventories of the state's ground water.

Description. The act provides that the application of ground water to a beneficial use prior to January 1, 1962 is recognized as a water right and that appropriations of ground water completed after January 1, 1962 must be based upon the filing provisions of the Ground Water Act (Section 89-2912, R.C.M. 1947).

The act provides that the "administrator" - - the Water Resources Board - - is responsible for preparing and publishing three different types of forms for filing ground water rights. These forms are filed by the appropriator or driller in the County Clerk and Recorder's office of the county in which the appropriation was made, and a copy is transmitted to the water resources Board and the Montana Bureau of Mines and Geology (Section 89-2913, R.C.M. 1947). The Board's Water Resources Department is receiving approximately 100 completed forms from the County Clerk and Recorders offices a month. The forms are checked by two employees of the Department to insure that they contain the correct information; this information is then catalogued and filed by township and range. If the forms are incorrect, the Board returns them to the appropriator, driller or County Clerk and Recorder.

The act also provides that designation or modification of an area of controlled ground water may be proposed by the Board upon its own motion or by a petition signed by at least 20 or one fourth (whichever is the lesser number) of the users of ground water in a ground water area alleging that the ground water withdrawals are in excess of recharge to the aquifers with the ground water area, that excessive ground water withdrawals are likely to occur in the near future; or, that significant disputes regarding priority of rights, amounts of ground water in use by appropriators, or priority of type of use are in progress within the ground water area (Section 89-2914, R.C.M. 1947). The Board then fixes a time and place for the hearing, publishes a notice of hearing, and serves a petition by mail on all persons having a declaration of a claim or notice of appropriation for the particular ground water area involved in the proceedings. At the time set for the hearing, the Board hears evidence, makes written finds of fact, and may issue an order decreasing the aggregate withdrawal of ground water to prevent it from exceeding the annual yield (Section 89-2915, R.C.M. 1947). After a controlled ground water area has been designated, persons desiring to appropriate ground water in the area must file a notice of appropriation with the Board for its review and approval. If the Board determines that the proposed appropriation would be beyond the

capacity of the aquifers in the ground water area it will not grant the application (Section 89-2818, R.C.M. 1947).

Once a petition has been filed and an order issued limiting the withdrawal of ground water in a controlled ground water area, the Board may modify or revoke its former order upon a finding that conditions have materially changed since the issuance of the order (Section 89-2915, R.C.M. 1947).

The Board may also hold a hearing to determine all existing rights to the ground water in a ground water area (regardless of whether it is a controlled area) upon the petition of any person claiming a right to withdraw ground water from the area (Section 89-2916, R.C.M. 1947).

Any person dissatisfied with the Board's orders may obtain a hearing by the Board to review the decision upon the filing of verified petition stating the reasons why the Board's order is believed to be unsound (Section 89-2919, R.C.M. 1947). A person dissatisfied with the Board's orders or determination may also appeal the Board's decisions to Montana District Courts and the Montana Supreme Court (Sections 89-2920 through 89-2923, R.C.M. 1947).

In 1967, the Board received a petition proposing a controlled ground water area in Prairie, Wibaux, and Fallon counties located in Eastern Montana. The Board held a hearing in Miles City and testimony was offered by 16 petitioners, collectively seeking creation of a controlled ground water area, and by Shell Oil Company, in opposition to the creation of a controlled ground water area. Statements were also received from other interested persons and numerous exhibits were presented. The Board members were present to review the evidence and make finding of fact. At the conclusion of the hearing, the Board members entered their findings of fact and issued an order creating a controlled ground water area (South Pine Controlled Ground Water Area) in which no application to and approval of the Board, and no presently inactive well was to be used to increase its rate of withdrawal except by application to, and approval of, the Board.

Shell Oil Company subsequently entered into an agreement with the Board limiting its withdrawals of industrial water in the controlled ground water area to a maximum of 11,000 barrels a day. The water levels in the area continued to drop and the Board determined that another hearing should be held to consider the possible modification of the existing order. The Board held the hearing in 1969, and issued an order modifying its existing order by providing that Shell Oil Company must limit its total withdrawals in the area to a maximum of 7,000 barrels of water a day or must pay an additional charge for electricity necessary to pump the water to the surface.

Although the Board has received no other petitions for creation of a controlled ground water area, has not instituted a controlled ground water area by its own motion, and has received only one application for a permit to appropriate ground water in the existing

controlled ground water area, several persons have been dissatisfied with the Board' modification order and have requested a re-hearing with the Board (denied by the Board because the petitioners had delayed their request beyond the 30 day statute of limitations provided by Section 89-2919, R.C.M. 1947) and have filed a petition in District Court to review the Board's decision.

The act also provides that the Board is authorized to require all wells producing waters which contaminate other waters to be plugged, capped or equipped with valves (Section 89-2926, R.C.M. 1947). The persons employed to administer the ground water program inform persons that wells must be capped and upon the receipt of complaints from local residents investigate and insure that wells are capped.

In addition to performing the duties imposed upon the Board by the Ground Water Act of 1961, the Water Resources Department employees having ground water responsibilities are required to complete a continuing comprehensive inventory of the state's ground water resources. The inventory, begun in 1967, is being completed on a county by county basis and is normally included with the water resources surveys prepared by the Water Resources Department. The inventory, directed at compiling information on ground water availability, is prepared from ground water data filed in the Water Resources Department, reports, and information obtained from private consultants. Inventories have been completed for Valley, Phillips, Blaine, Hill, Liberty, Toole, Glacier, Sanders, Mineral and Prairie Counties; and inventories are scheduled for completion in Dawson, Richland, Fergus, McCone, Garfield, Petroleum, Roosevelt, Daniels, and Sheridan counties by 1971.

Also, the Water Resources Department's ground water employees have prepared numerous ground water surveys at the request of private individuals, corporations, and state and county organizations. At the request of the Carbon County Soil and Water Conservation District, a ground water inventory and field study was conducted in Carbon County. In conjunction with the Carbon County study, a ground water inventory and field study of Stillwater County begun in 1968 by request of the Beartooth Resource Conservation and Development Project and the Stillwater Soil and Water Conservation District is being readied for publication. Also, preliminary reports and maps for the Buffalo Creek Cooperative Grazing District, a complete ground water inventory of Cascade County, preliminary studies of the Heddleston Mining District and Big Sky Development have been completed.

Funding and Personnel. The Ground Water program is financed by general fund appropriations. Program expenditures for fiscal year 1969 were \$37,968. The Board is presently employing two persons in the Water Resources Department to perform its ground water duties and is attempting to employ a geologist to complete ground water studies.

Weather Modification

General. On July 1, 1967, the Board became responsible for administering Montana's newly enacted weather modification laws (Sections 89-310 through 89-331, R.C.M. 1947). The laws were enacted to provide regulation for activities designed to change or control the natural development of atmospheric cloud forms or precipitation forms by artificial methods. The Board was authorized to establish an advisory committee to make recommendations to the Board concerning weather modification legislation, policies, administration, and research; to review applications for weather modification activity; to issue weather modification licenses and permits; to hold public hearings to assess proposed weather modification activities; and to establish rules and regulations governing weather modification.

After passage of the act, the Board established a weather modification program administered by the Administrative Department through the Board's attorney; appointed an advisory committee on weather modification activities; and issued weather modification rules and regulations relating to hearings procedures, professional qualifications of weather modification applicants, changes in weather modification plans, and license renewals.

Description. The Board's activity in the weather modification area has been limited as the Board has only received four or five applications for weather modification license activity since passage of the act. Three of the applications were for research, development and experimentation by the state and federal governments, and were exempted from payment of license and permit fees by the Board. The Board also determined that research operations did not require a public hearing and therefore did not hold public hearings on these applications. At the time the act was passed only one private firm was conducting weather modification activities in the state and this operation was discontinued after one year of operation. No public hearings were held or fees collected because the private firm had been conducting weather modification activities prior to passage of the act and the Attorney General advised that there could be no interference with presently existing contracts.

The Board's Weather Modification Advisory Committee is composed of two persons knowledgeable in the area of weather modification. The Committee does not meet formally and its activities have been limited to informing the Board on professional qualifications for license applicants and furnishing technical data.

Because the Board has not received many applications for weather modification activities, Board personnel have not devoted a great deal of time to the program and program expenses have been negligible. In fiscal year 1969, the Board did not expend any funds of weather modification activities.

Relations With Other Agencies

Many of the relations between the Water Resources Board and other agencies have been discussed previously in this report, particularly in the section dealing with the State Water Plan. The following section of this report enumerates additional relationships.

I. Relations With Other Montana State Agencies and Departments

Governor's Office. The Board's Personnel Director supplies management and consulting services to the Governor's office and advises the Governor's office of the progress of management and development training programs.

University System. In cooperation with the University system, the Board employs at least two students year-round on work study programs.

Department of Administration. The Board has close contact with the Department of Administration on all budgeting, general accounting, data processing, and purchasing matters.

Fish and Game Department. The Water Resources Department provides the Fish and Game Department with water right information on certain streams and assists in completing water right data on filing forms where the Fish and Game Department is appropriating water for recreational use. The Fish and Game Department furnishes the Water Resources Department with information on its activities for inclusion in the Department's county survey reports. The Board's Engineering Department attends joint meetings with the Fish and Game Department for river channel development, for flood protection, and works closely with the Department on recreational development programs on Water Board projects.

State Highway Department. The Water Resources Department provides the Highway Department with copies of the county water resources survey publication and supplies information on the carrying capacities of ditches which intersect interstate and state highways. The Highway Department furnishes the Water Resources Department with copies of incorporated town plats and base maps of counties. The Board's Engineering Department exchanges information with the Highway Department of design of hydraulic structures, right of way acquisitions through irrigated lands, and other information pertaining to water uses.

Department of Health. The Water Resources Department furnishes copies of the county water resources survey publications to the Department of Health and the Health Department reciprocates by providing water quality information to the Water Resources Board.

Soil Conservation Committee. The Board supplies the Committee with copies of the county water resources survey reports and exchanges information on the development of irrigation projects and Public Law 566 projects.

Water Pollution Control Council. The Board provides the Council with ground water and surface water information and copies of any of the Board's publications. The Board's Director is a member of the Council.

Department of Lands and Investments. The Board cooperates with the Department of Lands and Investments on projects on state lands and makes a full report of the water resources on state lands which are to be traded or sold. The Board also assists the Department in filing water rights on state lands and provides the Department with copies of all Board publications.

State Historical Society. The Board provides the society with approximately 20 copies of each of the water resources survey reports and supplies the Society with information of historical value discovered in the Board's investigations. The Society provides the Board with historical information which is utilized in numerous Board publications.

Department of Planning and Economic Development. The Board supplies information to the Department on new developments in the state where water is required and makes special studies on proposed industrial developments.

Oil and Gas Conservation Commission. The Board supplies ground water and surface water information to the Commission and the Commission supplies information on ground water and oil drilling operations to the Board.

State Board of Equalization. The Water Resources Board furnishes the State Board of Equalization with copies of the water resources survey.

Montana State University.

A. Cooperative Extension Service. The Board's Water Resources Department cooperates extensively with County Agents, working with agricultural interests in rural areas.

B. Department of Soil Scientists. The Board and Department exchange information on soils and related matters.

C. Agricultural Engineering. The Board cooperates with Agricultural Engineering on water resources surveys and exchanges publications.

University of Montana, Forestry Department. Copies of Board publications are supplied to the Forestry Department.

Montana College of Mineral Science and Technology. Services and publications of the Board and Bureau of Mines and Geology are exchanged. The Board's Water Resources Department obtains information for county surveys on surface and ground water and economic mineral resources from the Bureau.

Montana Water Well Contractors Examining Board. The Water Well Contractors Examining Board provides the Water Resources Board with information on licensed water well drillers. The Water Resources Board furnishes the Water Well Contractors Examining Board with copies of the ground water code and informs the Board of any well drilling violations which the Board has knowledge of. The Water Resources Board's Director is a member of the Water Well Contractors Examining Board.

II. Relations With Agencies and Departments of the Federal Government.

U. S. Army Corps of Engineers. The Board and the Corps exchange technical data and reports.

U. S. Department of Agriculture.

A. Agricultural Research Service. The Board and the Service exchange information on agricultural matters (irrigation etc.).

B. Agricultural Stabilization and Conservation Service. The Service provides photo coverage for the Board's water resources survey. The Service and the Board exchange published reports.

C. Farmers Home Administration. The Board reports and survey publications are utilized by the Farmers Home Administration.

D. U. S. Forest Service. The Forest Service supplies data on water use, water rights, and water planning on Forest Service lands. Maps and publications are exchanged between the Board and the Service.

E. Soil Conservation Service. The Board and the Service exchange information on reports and surveys.

U. S. Department of Commerce. The Department provides the Board with information obtained from the U. S. census. The Board provides the Department with copies of its publications. The Board also supplies its publications to the U. S. Weather Bureau and receives information on weather patterns for Montana counties.

U. S. Department of Interior.

A. Bureau of Indian Affairs. The Bureau furnishes the Board with information on water rights, irrigation developments, ownership, and other important data on Bureau lands. The Board and Bureau exchange publications and other information.

B. Bureau of Land Management. The Board purchases Government Land Office plats for use in the water resources survey from the B.L.M. The Board and the B.L.M. participate in cooperative studies on land exchanges. The Board furnishes the B.L.M. with copies of its water resources surveys.

C. Bureau of Reclamation. Maps, project information, reports, and publications are exchanged.

D. Bureau of Sport Fisheries and Wildlife. The Board furnishes the Bureau with water right and general information on Montana water resources.

E. Federal Water Pollution Control Administration. The Board receives information on federal water pollution control activities that may affect Montana. The Board corresponds with the Administration on items which the Board believes need special attention.

F. U. S. Geological Survey. The Survey and the Board have entered into cooperative agreements for stream gauging in Montana. Stream gauging information and articles included in water resources survey reports are compiled by the U. S. Geological Survey. Special investigations are completed on a cooperative basis on both ground water and surface water.

G. Water Resources Council. The Board receives information on federal water pollution control and related endeavors from the Council.

STATE SOIL CONSERVATION COMMITTEE

Organization

General

The State Soil Conservation Committee was established by the 1939 Legislature to administer the newly enacted Soil and Water Conservation Districts Law. This legislation was enacted to provide for the conservation of soil and soil resources, control and prevention of soil erosion, prevention of floodwater and sediment damages, and to further the conservation, development, utilization, and disposal of water, and thereby to preserve natural resources, control floods, prevent impairment of dams and protect reservoirs, preserve wildlife, protect the tax base, protect public lands and promote the health, safety, and general welfare of the people of the state (Section 76-102, R.C.M. 1947).

The Legislature has delegated to the State Committee the duties of administering the Soil and Water Conservation Districts Law (Title 76, Chapters 1 and 2, R.C.M. 1947), offering appropriate assistance to soil and water conservation district supervisors, informing district supervisors of the activities and experiences of all other districts, coordinating district programs, securing the cooperation and assistance of federal agencies and of other Montana agencies in district programs and disseminating information throughout the state concerning the activities and programs of the soil and water conservation districts (Section 76-104, R.C.M. 1947).

The State Committee is composed of seven members; and the Committee may additionally invite the United States Secretary of Agriculture to appoint a non-voting Committee member. The Committee members are: the Director of the State Extension Service, the Commissioner of the State Department of Agriculture, the Director of the State Agricultural Experiment Station, and four conservation district supervisors appointed by the Governor from a list submitted by the Montana Association of Soil and Water Conservation Districts. The Governor's appointees serve four year terms and receive \$20 per day for their services. The other members serve without compensation. All Committee members are compensated for expenses incurred in the discharge of their duties (Section 76-104, R.C.M. 1947).

While not required by law to meet regularly, in practice the Committee meets five or six times a year in its offices in the Sam W. Mitchell Building in Helena, or at selected places throughout the state.

The statutes provide that the Committee may request legal services from the state or employ its own counsel and legal staff (Section 76-104, R.C.M. 1947). The Committee has not retained a private attorney but has relied upon the Attorney General for all legal services.

Committee Activities

Although the statutes creating the Soil Conservation Committee empower the Committee to perform many functions, in reality, numerous functions are accomplished by the Committee's Executive Secretary rather than by Committee members. The Executive Secretary estimates that the Committee utilizes 35 per cent of its time reviewing Public Law 566 (16 U.S.C.A. § 100 (1960)) and 87-703 (7 F.C.A. § 1010 (1970)) applications; 35 per cent securing the assistance of state and federal agencies active in natural resource conservation and development; 15 per cent administering soil and water conservation laws; and 15 per cent assisting soil and water conservation districts and district personnel.

The Governor has designated the Committee as the state agency responsible for screening Public Law 566 (Small Watershed Projects) and 87-703 (Resource Conservation and Development Projects) applications. To date, the Committee has reviewed and accepted 57 applications for Public Law 566 funds and three Public Law 87-703 plans. According to the Committee's Executive Secretary, the Committee normally accepts the applications and the recommendation of the U.S. Department of Agriculture (Soil Conservation Service) and has not rejected any applications for Public Law 566 funds and has only rejected one application for Public Law 87-703 assistance.

In addition to accepting applications for Public Law 566 funds, the Committee, at the request of the U.S. Department of Agriculture (Soil Conservation Service), "determines" project priorities within the Department's preliminary investigation, planning, and construction phases. The Committee's Executive Secretary indicates that the Committee actually "determines" the priorities upon the recommendation of the U.S. Department of Agriculture.

The Committee has the responsibility of securing the cooperation and assistance of state and federal agencies for soil and water conservation districts (Section 76-104, R.C.M. 1947) and; according to the Committee's Executive Secretary, these duties consume 35 per cent of the Committee's time. The Executive Secretary and the Committee negotiate numerous "memorandums of understanding" with agencies of the state and federal government in order to allow the districts to receive the services provided by the various agencies. Also, the Executive Secretary and Committee attend meetings, serve on committees, and study programs sponsored by numerous agencies to determine the services and benefits that the agencies may provide for districts.

The Executive Secretary estimates that the Committee allocates approximately 15 per cent of its time to proceedings involving creation of districts or combination, discontinuance and inclusion of additional territory. The hearings and decisions made by the Committee and Executive Secretary during these proceedings are the only quasi-judicial functions the Committee is authorized to perform. Procedures utilized to accomplish all of the aforementioned purposes are similar and the Executive Secretary's and Committee member's individual duties are also similar in most instances.

The Executive Secretary is responsible for the general supervision and control of all hearings, referenda, and elections. The Committee members or the Executive Secretary conduct hearings upon the question of desirability and necessity and the Committee passes upon the hearings results at the next Committee meeting. Normally, according to the Executive Secretary, the Committee accepts the hearings officer's report and votes accordingly. A referendum is then scheduled to aid the Committee in determining practicability and feasibility; and after the results of the referendum have been received by the Committee, the members vote upon the question of practicability and feasibility. During the period extending from 1940 to 1954, the Committee approved the creation of 58 soil and water conservation districts. From 1940 to 1967 the Committee approved numerous petitions for inclusion of territory. Presently, the Committee's major activity in the performance of this function has been the consideration of petitions for inclusion of municipalities into existing districts (the same procedure is utilized as in petitions for inclusion of additional territory). Since 1967 the members have considered 36 petitions, and 11 petitions are pending before the Committee.

The Committee is required to assist soil and water conservation districts and district personnel (Section 76-104, R.C.M. 1947), and the Executive Secretary estimates that this activity consumes 15 per cent of the Committee's time. The members visit districts, discuss problems and programs with district personnel, and speak at workshops and district meetings.

Although the Committee is empowered to issue regulations (Section 76-104, R.C.M. 1947), to the Executive Secretary's knowledge, it has issued none.

Funding and Personnel

The Committee is authorized to employ an administrative officer and other agents it may require (Section 76-104, R.C.M. 1947). The Committee presently employs an Executive Secretary and one clerk-typist.

* An example was the petition filed with the Committee to include the municipality of Wolf Point in a district. A hearing was held and the Committee determined that the inclusion of Wolf Point in the district was desirable and necessary and scheduled a referendum to assist it in determining administrative practicability and feasibility. 100 per cent of the persons voting in the election voted in favor of including Wolf Point in the district, but only 20 persons voted in the election. Based on the lack of public interest, the Committee determined that the inclusion of Wolf Point in the district was not administratively practicable and feasible.

Total Committee expenditures for the biennium ending June 30, 1969 were \$139,386. This compares with the Committee's appropriation for the current biennium of \$202,600--an increase of 47 per cent. The Committee* is funded exclusively by state General Fund appropriations. The following schedule indicates Committee expenditures for the four most fiscal years, by program and object.

*The Committee was appropriated \$150,000 from the General Fund to administer Public Law 566 projects during the current biennium; this accounts for most of the increase in appropriations for the current biennium. The Committee was appropriated \$30,000 by the 1965 Legislature and \$100,000 by the 1967 Legislature to administer Public Law 566 projects.

Expenditures, State Soil Conservation Committee, Fiscal Years 1966-69*

EXPENDITURES BY PROGRAM

	<u>1966</u>	<u>1967</u>	<u>1968</u>	<u>1969</u>
Administration.....	\$ 30,391	\$ 33,608	\$ 53,356	\$ 86,030
Total Programs.....	\$ 30,391	\$ 33,608	\$ 53,356	\$ 86,030

EXPENDITURES BY OBJECT

Personal Services..	\$ 10,705	\$ 10,786	\$ 12,617	\$ 11,756
Operation.....	19,288	22,822	40,739	74,224
Capital.....	398	-0-	-0-	50
Total Objects	\$ 30,391	\$ 33,608	\$ 53,356	\$ 86,030
Biennial Totals		<u>\$ 63,999</u>		<u>\$ 139,386</u>

The following schedule indicates appropriations to the Committee for the biennium ending June 30, 1971.

Appropriations, State Soil Conservation Committee.

1969-71 Biennium

General Fund	<u>Fiscal Year 1970</u>	<u>Fiscal Year 1971</u>
(a) personal services.....	\$ 17,000	\$ 17,000
(b) operation and capital.....	9,300	9,300
(c) Watershed project planning.....	75,000	75,000
Total appropriation		
1969-71 biennium	<u>General Fund</u>	<u>Other Funds</u> <u>Total</u>
	\$ 202,600	-0- \$ 202,600

*The expenditure totals for 1966-67-68 were obtained from the Executive Budget. Expenditure totals for 1969 were obtained from the State Budget Director's Office.

Program Description--Administration

General

The State Budget Director has included all Committee activities in an Administrative program. Staff research indicates that the Committee's major activities may be classified in the following categories:

1) administering soil and water conservation district laws; 2) providing education and assistance to soil and water conservation districts and district personnel; 3) administering Public Law 566--the Federal Watershed Protection and Flood Prevention Act and accepting applications for various conservation and development projects under Public Law 87-703; and 4) securing the cooperation and assistance of state and federal agencies active in natural resource conservation and development.

1. Administration of Soil and Water Conservation District Laws.

The responsibility of administering the Soil and Water Conservation District Law (Title 76, Chapters 1 and 2, R.C.M. 1947) entails supervision of the creation, division, addition, dissolution, and general daily operations of all soil and water conservation districts in Montana.

Presently, 58 districts are organized in Montana and all rural areas of Montana except Prairie County and a portion of Custer County are included in Soil and Water Conservation Districts. These districts are governmental subdivisions of the state and are endowed with the following powers:

1. To conduct and publish investigations relating to soil erosion, floodwater, sediment damages, and water conservation.
2. To conduct soil, vegetation, and water resource conservation projects on lands located within the districts.
3. To carry out preventive and control measures for flood prevention and water conservation, development and utilization.
4. To cooperate, contract, or furnish financial aid to any agency or occupier of lands within a district for erosion control, flood prevention; and water conservation, development and disposal.
5. To acquire real or personal property and to administer and/or dispose of the same.
6. To make agricultural and engineering equipment available to land occupiers in the district for soil conservation and flood prevention purposes.
7. To construct and operate structures which are necessary for soil and water conservation.

8. To develop plans for soil conservation, flood prevention, and water disposal.

9. To administer soil conservation, flood prevention, drainage, irrigation, water management, erosion control or prevention projects undertaken by the United States or Montana agencies.

10. To sue or be sued and to execute contracts necessary to the exercise of other district powers.

11. To require contributions in money, services, or materials from district members.

12. To incur indebtedness and to issue bonds as evidence of such indebtedness.

13. To fix and collect fees or other charges for the use of facilities.

14. To cause taxes to be levied for the purpose of paying district obligations (Section 76-108, R.C.M. 1947).

As proceedings involving creation, combination, discontinuance, and inclusion of additional territory have consumed a great deal of the Committee members' time, a brief discussion of these procedures is necessary.

To create a soil and water conservation district, ten land occupiers must file a petition with the Committee requesting that a district be formed to function in the territory described in the petition. The Committee causes notice of and conducts a hearing upon the question of the desirability and necessity of the creation of the district. If the Committee, at its next meeting determines that the proposed district is desirable and necessary, it schedules a referendum to determine whether the creation of the district is administratively practicable and feasible. If 65 per cent of the votes cast in the referendum are in favor of the creation of the district and if the Committee determines that the proposed district is administratively practicable and feasible, it appoints two district supervisors, certifies to the Secretary of State that proper procedures were followed, and supervises the first district election (Sections 76-105 and 76-106, R.C.M. 1947).

Procedures for discontinuance (Section 76-114, R.C.M. 1947), division (Section 76-117, R.C.M. 1947), combination (Section 76-117, R.C.M. 1947), and inclusion of additional territory (Section 76-105, R.C.M. 1947) are very similar to the methods utilized in the creation of districts; and the Executive Secretary's and Committee members' individual duties are also similar in most instances. Generally, the Executive Secretary is responsible for the general supervision and control of all hearings, referenda, and elections. The Committee members or the Executive Secretary conduct hearings upon the question of desirability and necessity and the Committee passes upon the hearing results at the next Committee meeting.

A referendum is then scheduled to aid the Committee in determining practicability and feasibility; and after the results of the referendum have been received by the Committee, the members vote upon the question of practicability and feasibility.

During the period extending from 1940 to 1954, the Committee approved the creation of 58 soil and water conservation districts. From 1940 to 1967 the Committee approved numerous petitions for inclusion of territory in order to allow the districts to conform to county boundaries as other political subdivisions of the state had. Presently, municipalities have become aware of the benefits accruing to areas included in soil and water conservation districts and have been applying to the Committee for inclusion into districts. Since 1967, the Committee has considered 36 petitions for inclusion of municipalities into existing districts (Section 76-105, R.C.M. 1947) and one petition for combination of separate districts. Eleven petitions for inclusion of municipalities are pending before the Committee at the present time.

2. Providing Education and Assistance to Soil and Water Conservation Districts and District Personnel.

The Committee's second activity generally involves education and assistance to districts and district personnel. The major educational functions performed by the Committee and the Executive Secretary are included in the following discussion.

Workshops - Workshops are sponsored by the Committee and are held in various locations throughout the state. These workshops are sponsored to educate district supervisors in matters relating to the daily operations of districts. Practical topics such as the duties and responsibilities of supervisors, agricultural pollution, land use regulations, and total resource planning are discussed. The workshops are organized and supervised by the Executive Secretary in cooperation with state, federal and local officials. Committee members involvement in workshops is limited, generally, to speaking on current topics at the workshops. The Executive Secretary estimates that 15 to 20 workshops are held throughout the state annually.

Visits by the Executive Secretary - The Executive Secretary attempts to visit all 58 districts at least once annually. He inspects the district's long range programs and annual reports and offers suggestions for improvement. The Secretary also suggests new programs, reviews district projects and discusses legislation affecting districts.

Publication of Bi-Monthly Newsletter - The Committee co-sponsors "Treasure Acres", a bi-monthly newsletter. This publication is supported by the State Committee contribution (\$400 per year) and the Montana Association of Soil and Water Conservation Districts contribution (\$1,000 per year). The newsletter is edited by the Committee's Executive Secretary and includes articles prepared by the President of the Montana

Association of Soil and Water Conservation Districts, summaries of legislation affecting districts, schedules of workshops and other meetings, articles pertaining to conservation practices, and a synopsis of district projects and activities. Presently, "Treasure Acres" is circulated to district supervisors, public libraries, and other interested parties and has a circulation of 1,850.

Written Communication with Districts - The Committee receives copies of all ordinances, rules, regulations, orders, contracts, forms and other documents that have been adopted or employed by the districts (Section 76-107, R.C.M. 1947). These documents are reviewed by the Committee and the Executive Secretary. The Committee or Executive Secretary notifies the districts if there are any suggestions for modification of the matters presented to it.

The districts also contact the Committee for technical advice and aid and the Executive Secretary or Committee members furnish this assistance through written correspondence or personal contact.

Biennial Report - The Committee publishes a biennial report which is distributed to all 58 conservation districts. This report contains recommendations for improvement of soil and water conservation district laws, reviews or recent amendments to conservation laws, reports of Committee activities, and a synopsis of functions performed by agencies cooperating with the Committee and districts.

Interchange of Reports Between Districts - The Committee encourages the exchange of reports and long range plans between districts. In certain instances, the Committee members or Executive Secretary actually transmit these reports to the various districts.

Visits by Committee members - The Committee members visit the districts in their sections of the state and discuss particular problems and plans with district supervisors and cooperating state and federal agencies.

Legal Opinions - The Committee distributes the Attorney General's opinions affecting soil and water conservation laws to the districts.

Publication of a "Reference Handbook for Soil Conservation District Supervisors" and a "Guide for Montana Soil and Water Conservation District Supervisors" - These publications outline procedures to be followed in the conduct of district operations. The "Reference Handbook" enumerates district supervisors' powers, suggests, procedures for successful district administration, states obligatory duties in districts, enumerates federal and state agencies offering assistance to districts and presents model by-laws for district adoption. The "Guide" is a more recent publication updating the "Reference Handbook" and includes suggestions for organizing supervisors' meetings, preparation of budgets, and other procedural duties.

The Committee has also published a memorandum which explains the responsibilities of district supervisors in conducting elections in their districts. This memorandum includes essential elections forms and explanations of their uses.

3. Administering Public Law 566--the Federal Watershed Protection and Flood Prevention Act--and accepting applications for resource conservation and development projects under Public Law 87-703. The Committee's third activity entails supervision of applications for Public Law 566 funds and assistance and accepting applications for resource conservation and development projects under Public Law 87-703.

Public Law 566--the Watershed Protection and Flood Prevention Act--was enacted in 1954 by Congress and the Governor of Montana designated the State Soil Conservation Committee as the state administering agency. Basically, this law was enacted to provide "local organizations"--any state, political subdivision, soil or water conservation district, flood prevention or control district, or any other agency having authority under state law to carry out works of improvement (16 U.S.C.A. § 1002)--with federal assistance on watershed projects encompassing 250,000 acres or less. The program provides funds and services for projects involving flood prevention, irrigation, drainage, fish and wildlife conservation, municipal water supplies, and recreational development. Local organizations request these funds from the Secretary of Agriculture of the United States. The Act provided that a "local organization" must apply to a state agency (in this instance the State Soil Conservation Committee) having supervisory responsibility over flood prevention programs before the Secretary of Agriculture may conduct investigations, prepare plans, make allocations of costs, and cooperate and enter into agreements with and furnish financial and other assistance to local organizations (16 U.S.C.A. § 1003). Presently, the federal government will provide 100 per cent funding for flood control project construction and 50 per cent funding for irrigation and/or recreation project construction. Also, the federal government provides two-thirds of the funds necessary for planning these projects.

As mentioned previously, the State Committee's main functions under Public Law 566 are to screen applications prior to submission to the Secretary of Agriculture and to set project priorities.

A local organization interested in obtaining Public Law 566 funds contacts the Committee or the Department of Agriculture (Soil Conservation Service) for assistance in formulating an application for submission to the Secretary of Agriculture. Normally, the Soil Conservation Service assists in preparing the application for presentation to the Committee for approval. Since the inception of Public Law 566 the Committee has approved 57 applications and according to the Committee's Executive Secretary, the Committee has not rejected any applications. After the Committee has approved the application, it is transferred to the State Department of Planning and Economic Development and submitted to the Secretary of Agriculture.

The Department of Agriculture (Soil Conservation Service) has requested the Committee to set Public Law 566 project priorities within its preliminary investigation, planning, and construction stages. According to the Committee's Executive Secretary, the Soil Conservation Service actually makes project priority determinations and submits them to the Committee for its approval. Presently 57 applications have been approved by the Committee; 27 preliminary field examinations have been or are being completed, 11 projects have been planned, 2 are in the planning stage, 4 projects are being constructed, and 4 are under construction.

Under the terms of Public Law 87-703 (7 F.C.A. § 1010 to 1013 (1970)) the Secretary of Agriculture is empowered to develop land conservation and utilization programs to correct maladjustments in land use by making loans to state and local agencies and non-profit organizations, conducting surveys, and disseminating information. Loans to state and local agencies and non-profit organizations may be made only if the plans have been submitted to and not disapproved by the state agency having supervisory responsibility over the plans. The Governor of Montana has designated the Soil Conservation Committee as the state agency having supervisory responsibility over Public Law 87-703 plans in Montana. The Committee has considered four plans and has accepted three for submission to the Secretary of Agriculture. Presently two plans are active and funded in Montana--the Bitterroot Resource Conservation and Development project in Ravalli and Missoula Counties, and the Beartooth Resource Conservation project in Stillwater and Carbon Counties.

4. Securing the Cooperation and Assistance of State and Federal Agencies active in Natural Resource Conservation and Development. The Committee and the Executive Secretary spend a great deal of time performing liaison duties for the districts. The Committee has the responsibility of securing the cooperation and assistance of state and federal agencies active in natural resource conservation and development.

One of the major functions performed by the Committee and the Executive Secretary involves the formulation and execution of "memorandums of understanding." These agreements for mutual cooperation are entered into by the districts and the cooperating state or federal agencies and generally provide for mutual cooperation in district projects and programs. Presently, "memorandums of understanding" or field agreements are in effect between districts and the following: the United States Department of Agriculture (Soil Conservation Service, Agricultural Research Service, Extension Service, Farmers' Home Administration, Forest Service, and Agricultural Stabilization and Conservation), the United States Department of the Interior (Bureau of Land Management, Bureau of Indian Affairs, Bureau of Reclamation, and Bureau of Sport Fisheries and Wildlife), the State Fish and Game Commission, the State Forester, the Department of Lands and Investments, the Water Resources Board, and the Montana State University Cooperative Extension Service.

The Committee also serves as a liason between districts and the following agencies of the federal government:

Agricultural Stabilization and Conservation (ASC) Committee, USDA. The Agricultural Stabilization and Conservation Committee administers the agricultural conservation cost-sharing program which provides federal aid, materials, or services for approved soil and water conserving practices. These programs and practices are developed and administered by Agricultural Stabilization Conservation county committees in cooperation with local representatives of the Soil Conservation Service, Forest Service, Extension Service, local soil and water conservation districts, and the State Soil Conservation Committee. The State Committee and local districts present ideas for conservation practices and suggest the amount of cost sharing.

Farmers' Home Administration. The Farmers' Home Administration provides soil and water conservation loans to eligible farmers, ranchers, and associations unable to obtain long term credit from other sources. The local districts provide technical information regarding the property which is to be improved, and the State Committee participates in any FHA improvement project involving a watershed project.

U.S. Forest Service. The Department of Agriculture has assigned the Forest Service the responsibility of furnishing technical assistance for management of private forest lands. These services are normally available through the office of the State Forester under established cooperative programs.

Where national forest lands are within or adjacent to soil and water conservation districts, the Forest Service will cooperate with the district and State Committee in coordinating national forest work programs with district programs.

U.S. Bureau of Reclamation. The Bureau cooperates with districts by furnishing data on reclamation irrigation projects, assisting in developing programs, and performing conservation work on lands under its jurisdiction. The Bureau also furnishes technical assistance, materials, equipment or funds under cooperative agreements or contracts for conservation work accomplished for the protection of Bureau lands and works.

U.S. Fish and Wildlife Service. The Service cooperates with the districts and State Committee by making surveys and recommendations for development of wildlife habitat and rodent and predatory animal control.

U.S. Bureau of Land Management. The Bureau is responsible for a great quantity of land which is intermingled with other lands; therefore, the Bureau and districts participate in joint ranch planning and enter into cooperative agreements to provide technical assistance, materials, or funds.

U.S. Bureau of Indian Affairs. The Bureau cooperates with districts by furnishing technicians, materials, seeds, fertilizers and equipment to further district programs including Indian lands. Also, the Bureau furnishes technical services, materials, and equipment to promote conservation programs on non-Indian lands within districts when such assistance is counterbalanced by contributions made by the district for protection of Indian lands.

U.S. Geological Survey. The Survey enters into cooperative agreements providing for mineral investigations financed by matching funds.

U.S. Army Corps of Engineers. The Corps cooperates with districts for emergency flood protection works and complete flood control works on navigable streams or tributaries.

The State Committee represents districts in their relations with the following state agencies and departments:

Cooperative Extension Service. The Service is instrumental in determining the educational needs for successful district conservation programs. The Service also provides educational materials and services to districts.

Montana Agricultural Experiment Station. The Experiment Station assists districts by preparing surveys, supplying technical advice, and conducting experiments on soils.

Forest and Conservation Experiment Station. The Forest and Conservation Experiment Station assists districts in the development of forestry, range, wildlife, and watershed management surveys. The Experiment Station also supplies grass seed and tree and shrub planting stock to districts.

Office of the State Forester. The State Forester furnishes districts with information and recommendations regarding state forest land ownerships, brush and slash disposal techniques, forest management practices, and forest fire control.

Montana Fish and Game Department. The Fish and Game Department works closely with districts in the development of outdoor recreation programs and preservation or construction of wildlife habitat. The Department also makes technical assistance available for fish farm pond construction and management.

Water Resources Board. The Board co-sponsors certain projects completed under Public Law 566. Also, the Board and State Committee are involved in river basin planning, ground water control, multipurpose water storage, and the state water plan.

Attorney General. The State Committee and districts may request legal services from the Attorney General or may employ private counsel. The Attorney General has supplied approximately 45 legal opinions to the Committee and the districts since the Committee's inception.

State Department of Public Instruction. The Department of Public Instruction and the State Board of Education cooperate with the districts and the State Committee in the area of conservation education in Montana schools, colleges, and universities.

Council on Natural Resources and Development. The Executive Secretary of the State Committee is a member of this Council. Presently the State Committee has been designated as the coordinating agency for the state range plan sponsored by the Council.

State Highway Joint Development Council. The Executive Secretary is a member of this Council. He provides recommendations received from affected soil and water conservation districts.

Coal Strip Mine Reclamation Advisory Committee. The State Soil Conservation Committee is an advisory member to the Montana Bureau of Mines and Geology under 1967 and 1969 legislative acts in implementing contracts for land reclamation in connection with coal strip mining.

Other Committee Assignments. The Executive Secretary or Committee members serve in various special state and federal committees such as: Water Pollution Control Council ; Outdoor Recreation Advisory and Planning Committee ; Modern Water Code Committee ; and State Water Policy Committee.

MONTANA GRASS CONSERVATION COMMISSION

Organization

Historical Notes

The Montana Grass Conservation Commission was created in 1939 (Laws of Montana 1939, Ch. 208). The law governing the Commission is codified in Title 46, Chapter 23, R.C.M. 1947. The legislative proposal was:

. . . to provide for the incorporation of co-operative nonprofit grazing districts, to provide a means of co-operation with the secretary of the interior as provided in . . . the Taylor Grazing Act [43 U.S.C. §§ 315-1171 (1964)] . . . to permit the setting up of a form of grazing administration which will aid in the unification or control of all grazing lands within the state where the ownership is diverse and the lands intermingled and to provide for the stabilization of the livestock industry and the protection of dependent commensurate ranch properties. . . . (Section 46-2301, R.C.M. 1947).

In the 1920's, the land in the Mizpah-Pumpkin Creek areas--south of Miles City--was over-grazed, the ownership pattern was extremely complicated and a workable solution had to be found to allow economic and reasonable use of the land. The financial resources of the ranches were so small that they could not buy or lease the necessary acreage. Furthermore, public domain was interspersed with private lands and the government land could not be fenced, which made it impossible to block off a comprehensive area. Interested stockmen and others met during the summer of 1926 and decided special legislation from Congress was required. After a subsequent meeting came a decision to create the first cooperative grazing district in America. This meant a revolutionary change in public land policy.*

Congress was asked to pass a special Act which would provide for the withdrawal from homestead entry of the public domain within the area--about 25 per cent of the total acreage--and permit it to be fenced, for private use. Passing the House in March, 1927, the measure authorized the Secretary of the Interior to enter into a cooperative agreement with the state of Montana and private landowners in the deprived area for joint leasing of such lands for a period not to exceed ten years, to stockmen living in or adjacent to the area; it provided also that public domain included in the project was to be withdrawn from homestead entry (45 Stat. 380).** Of the rest of the land in the proposed district, approximately 41 per cent belonged to the Northern Pacific

*Howard, Joseph Kinsey, Montana: High, Wide and Handsome, Yale University Press, New Haven, 1959, at 295-97.

**Howard, Montana, supra, at 297-98

Railroad Company, 28 per cent was privately held and the state of Montana owned about 6 per cent. The association asked the state to trade its land to the federal government in exchange for acreage elsewhere. A second special Act of Congress was subsequently passed to effect the request (45 Stat. 1430) but legal difficulties arose and the proposed exchange never occurred. Instead, the State Land Board gave control of its property to the association.

The first cooperative range grazing district was a success. Fencing, range restoration work and conservative grazing practices were methods employed to effect the program.

In 1933, Montana adopted a "grazing district law"(Laws of Montana 1933, Ch. 66, Sec. 1-14) to encourage and expedite formation of cooperative grazing associations. One year later the United States Congress passed the Taylor Grazing Act (43 U.S.C. 315 and 1171) authorizing the Secretary of the Interior to make agreements with these associations anywhere in the United States and to withdraw from homestead entry the lands they needed for their districts. The Montana "experiment" had persuaded Congress to authorize a major change in the nation's livestock practice.*

In 1935, Montana created the forerunner of the current Grass Conservation Commission by authorizing the Montana Grazing Commission (Laws of Montana 1935, Ch. 194, Sec. 1-12). Later the Grass Conservation Act of Montana repealed the 1933 and 1935 laws (Laws of Montana 1939, Ch. 208, Sec. 1-33).

This historical and legal tracing of the first cooperative grazing district in America was detailed so as to give a background to the report and spell out the reasons behind its inception: the scattered land ownership and the need to pull federal land in was fundamental to the existence of the small local stockman. The solution to the problem was unique and has remained unique for Montana is still the only state to perpetuate local-cooperative grazing associations. Similarly, the Montana Grass Conservation Commission is the only one like it among the states--no other state has enacted such legislation.**

Commission Activities

The Commission is composed of five members appointed by the Governor and confirmed by the Senate for staggered four year terms (Section 43-2303, R.C.M. 1947). The Governor, giving full consideration to representation of large and small operators, is required to appoint one member who is a livestock operator and an officer or a permittee member of an organized state grazing district from each of the following groups:

1. the Montana Stockgrowers Association,
2. the Montana Woolgrowers Association,
3. the County Commissioners Association,
4. one of the cooperative state grazing districts.

*Howard, Montana, supra, at 299-300

**Howard, Montana, supra, at 298

The fifth member is to be a person representing the general public who is familiar with the livestock industry. Provisions concerning the appointment of the Commission are found in Section 46-2303, R.C.M. 1947.

The members of the Commission receive actual traveling expenses incurred for regular or special meetings and \$10 per diem for each day actually in attendance at meetings (not to exceed \$500 per diem per member a year) as provided in Section 46-2305, R.C.M. 1947.

The Commission is required by law (Section 46-2304, R.C.M. 1947) to meet annually on the third Monday in June at the State Capitol and, in fact, does so. Special meetings are sometimes held in conjunction with other state, federal, or private agencies with which the Commission cooperates (State Land Board, Bureau of Land Management, Soil Conservation Service, etc.). The Commission members attend an average of six meetings a year: four cooperative meetings, the annual meeting, and one meeting to set the next year's grazing fees.

The primary responsibility of the Commission is to oversee the organization and administration of grazing districts within the state. The grazing districts (there are currently 33 operating in the state) are non-profit cooperative organizations designed to enforce intelligent, conservative use of native forage on range lands where ownership patterns are diverse, checker-boarded and often absentee-owned. The law is very specific and detailed concerning the districts and their operations and the Commission has limited latitude for policy-making. Each district is administered by an elected Board of Directors and a Secretary-Treasurer. The allocation of rangeland among the members of the district, which is their primary duty, is performed on an individual district basis and not by the Commission.

The Commission performs no quasi-legislative or rule-making functions. Although granted implied powers which would give it the authority to do so, the Commission has limited its activities in this area to the approval of a handbook compiled by the Secretary containing reprints of existing laws, and models of federal-state agreements and memorandums.

The Commission is authorized by law to hold hearings on various matters concerning grazing districts. Section 46-2307, R.C.M. 1947, authorizes the Secretary of the Commission or any one or more of the members to hold hearings on any matters affecting the Commission. The Commission has the power of subpoena under the same section. Hearings are also authorized by law for the following purposes:

- hearing for failure by the district to comply with an order of the Commission (Section 46-2307, R.C.M. 1947);

- hearing an appeal from anyone affected by the decision of a state district to the Commission (Section 46-2308, R.C.M. 1947);

- hearing for approval of the incorporation of a state district (Section 46-2309, R.C.M. 1947);

- hearing on application from a district for transfer of a grazing preference (Section 46-2322, R.C.M. 1947).

A past Secretary has indicated that, in recent years, an average of one hearing has been held a year. The hearings are generally appeals by stockmen of a decision of a district. The hearings are usually conducted by the Secretary who acts as a hearings officer. His recommendation plus a full transcript is forwarded to the Commission for its approval, modification or rejection. The Secretary indicated that his recommendations are supported by the Commission over 95 per cent of the time. Commission members occasionally attend hearings.

At the Commission meetings the members review the activities of the districts as presented by the Secretary. The Commission can do little more than determine that the districts are complying with the law and standard by-laws or, if they are not complying, direct the Secretary to contact the district organization and demand compliance. The Commission does have final control over the existence of the districts; however, in the recent past, new districts are formed infrequently and the operation of the districts is routine.

As further explained in the Funding and Personnel section of this report, the Commission does set the fee to be charged the districts once each year to meet the necessary operating expenses of the Commission.

The Commission performs a limited liaison function at cooperative meetings with other agencies of state and federal government. It requests particular actions or policies on behalf of the districts.

The Commission Secretary is appointed by the Commission as required by law (Section 46-2305, R.C.M. 1947). The law provides that the Secretary shall be the executive officer of the Commission. He performs administrative duties assigned to the Commission by law, and other duties assigned by the Commission. A former Secretary has indicated that a Secretary's workload is approximately divided as follows:

1. Hearings and resolution of disputes	15 per cent
2. Visits to districts	40 per cent
3. Meetings with related state and federal agencies	20 per cent
4. Administration	<u>25 per cent</u>
	100 per cent

The Commission has utilized both full-time and part-time Secretaries in the past ten years. Currently, the Commission does not have a Secretary, but is utilizing part-time service from the Chief Field Agent in the Department of Lands and Investments.

The office location of the Commission has traditionally been where the Secretary lives--usually in Eastern Montana, close to the majority of the districts.

As authorized by Section 46-2307, R.C.M. 1947, the Commission secures legal assistance on a per job basis from a private attorney.

Funding and Personnel

Total Commission expenditures for the 1967-69 biennium were \$33,711. This compares with the appropriation for the current biennium of \$31,240--a decrease of 7 per cent. The following table shows Commission expenditures for the five most recent fiscal years by object.

Expenditures, Montana Grass Conservation Commission, Fiscal Years 1966-70

	1966	1967	1968	1969	1970
Personal Services	\$3,146	\$5,373	\$7,366	\$11,563	\$11,252
Operation	4,924	5,621	7,819	8,963	7,306
Capital	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Total	\$8,070	\$10,994	\$13,185	\$20,526	\$18,558
Biennial:		<u>\$19,064</u>		<u>\$33,711</u>	

The following table indicates appropriations to the Commission for the 1969-1971 biennium.

Appropriations, Montana Grass Conservation Commission, 1969-71 Biennium

<u>Earmarked Revenue Fund:</u>	<u>Fiscal Year 1970</u>	<u>Fiscal Year 1971</u>
a. personal services	\$9,628	\$10,212
b. operation	<u>5,700</u>	<u>5,700</u>
	\$15,328	\$15,912
Biennial Total:	<u>\$31,240</u>	

It might be noted that although \$15,328 was appropriated for fiscal year 1970, \$18,558 was actually spent--an over-expenditure of 21 per cent. To account for this, a budget amendment increasing the Commission's appropriation authority by \$6,205 was approved by the Budget Director and the Governor. This money came from the accumulation of collected fees in the Earmarked Revenue Fund set aside for that purpose.

According to Section 46-2331, R.C.M. 1947, the Commission has the right to impose a fee up to 10¢ per animal unit based upon the number of animal units per year for which the district grants permits. All but 1 per cent is to be deposited to the credit of the Earmarked Revenue Fund for the support of the Commission. The 1 per cent is to be forwarded to the State Treasurer for deposit in the General Fund (Section 46-2331, R.C.M. 1947). The intent of this provision is at best unclear, but it is assumed that the 1 per cent was meant to repay the General Fund for the initial expenses of the Commission when it was first funded and where to become self sufficient by fee support from the districts. The 1 per cent was not deposited to the General Fund during the fiscal year 1969 or for several years previously. The amount involved for fiscal year 1969 was only \$127, but the accumulated amount over the years could amount to a substantial sum. The current Commission has expressed an intention to repay this amount and commence paying the statutorily imposed amount each year (an average might be \$150.00). Total revenue collected by the Commission in fiscal year 1969 was \$12,673; this was based

upon a fee of 9¢ per AUM. The fee for calendar year 1970 has been set at the statutory maximum of 10¢ per AUM.

Total personnel employed by the Commission is 0.5 employees (FTE). Normally, and after a new Secretary is hired, this should increase to 1.0 or 1.5 employees (FTE), depending on whether a consultant is retained.

Program Description--Administration

General.

The purpose of the Grass Conservation Act, as stated in Section 46-2301, R.C.M. 1947, is the conservation, protection, restoration and proper utilization of grass, forage and range resources of the state through cooperative non-profit grazing districts and a form of grazing administration which will aid in the unification or control of all grazing lands within the state where ownership is diverse and lands intermingled and stabilize the livestock industry and protect dependent commensurate ranch properties.*

*The statutory definitions of some of the terms frequently used in this report are as follows (from Section 46-2302, R.C.M. 1947):

"State district"--a nonprofit cooperative organization incorporated under the provisions of the act.

"Range"--the land within a grazing district upon which grazing permits are granted to maintain livestock through the established grazing period.

"Permits"--evidence of grazing privileges granted by state districts.

"Grazing preference"--a right to obtain a grazing permit from a state district.

"Commensurate property"--land privately owned or controlled which is not range as herein defined.

"Dependent commensurate property"--commensurate property which requires the use of range in connection with it to maintain its proper use, which produces or whose owner furnishes as part of his past customary practice the proper feed necessary to maintain livestock during the time other than the established grazing period on the range, and which has been used in connection with the range for a period of any three years or for any two consecutive years in the five-year period immediately preceding June 28, 1934; or in the case of districts organized after March 15, 1945, for a five year period immediately preceding the date of organization of such districts.

"Animal unit"--one cow, one horse, or five sheep, six months old or over.

"Assessment"--a special levy imposed on permittee members by the state district to raise funds for specific purpose as provided by law. Assessment does not include fees.

Though not defined by law, the term "grazing year" is commonly understood to mean the period of time (usually 8 months) when districts' range is utilized.

As a practical matter, the 33 state grazing districts are organized to coordinate the utilization of state (State Land Board) and federal (Bureau of Land Management) range lands by private stock operators. The organization and operation of these grazing districts is under the general supervision of the Commission and is provided for in Title 46, Chapter 23, R.C.M. 1947.

Description.

The requirements for the creation of a state grazing district are contained in Sections 46-2309 through 2311, R.C.M. 1947. The procedure is complex but can be summarized as follows: Three or more livestock operators who own or control commensurate property within the area of a proposed state district may submit a proposal to the Commission containing such information as required by law. On receipt of the proposal the Commission must schedule a hearing at which time the Secretary of the Commission will hear evidence for and against the proposal. The Secretary makes a full inquiry into the matter and submits his report and the record of the hearing to the Commission. If it appears that the proposed district will be feasible, beneficial and desirable to those who own and control more than 50 per cent of the land to be included, the Commission issues a certificate of approval. Upon the issuance of the certificate, articles of incorporation are filed (without fees) at the office of the Secretary of State by three or more stock operators with commensurate land in the district.

According to Section 46-2314, R.C.M. 1947, membership in the district is limited to persons, partnerships, corporations and associations, or an agent thereof, engaged in the livestock business who own or lease forage producing land within or near the district.

The organization of the district is set out in the by-laws of each district. The by-laws are a standard set of provisions originally adopted by the first state grazing districts. The by-laws provide for the meetings of the district; its management by an elected five-member Board of Directors and a Secretary-Treasurer selected by the Board; and details concerning the use of district land.

Upon completion of its organization the grazing district must file with the clerk in each county in which district land lies, a map and copy of articles of incorporation of the district.

A district has powers enumerated by law, however the basic function of the district is to manage and control the use of its range. The first step is to acquire necessary range through lease, purchase or cooperative agreement. State land within the district is leased from the State Land Board as provided in Section 46-2316, R.C.M. 1947. Federal land is acquired for use through cooperative agreements with the Bureau of Land Management. The district may also purchase private land for its use when available. The land thus acquired is the "range" of the district.

The district allocates the acquired "range" among its members. Grazing preference is the term used to indicate this range distribution. The preferences are distributed according to the carrying capacity of the available land and the prior use made of the land. Priorities among members of the district for allocations are set by law in Sections 46-2320, R.C.M. 1947.

Provisions concerning the legal status of the grazing preference in regards to the transfer of the commensurate property are contained in Section 46-2322, R.C.M. 1947.

Grazing preferences usually run with each ranch and are actually sold as a property right running with that particular spread. Priority is prior use--proof of it as documented by the amount the ranch used the range. That is, how many animals did the ranch run during a base period. The usual base period was the period of 1929-34. Proof of priority of use may be established by any three years in that period or the highest two years. Commensurate property means the off-district land that a rancher has to support the livestock during non-grazing months (usually 4). Thus if a ranch had run 500 AUMs on the pre-district range and had the commensurability to support those same 500 head during the off-district winter months, that ranch would carry a grazing preference of 500. Any combinations or modifications would then have to be decided by the local district and its board. If a dispute arose that could not be resolved at the district level then it would be forwarded to the Commission and the Secretary. Usually the Secretary would resolve the matter short of a formal hearing. However, a formal hearing might be called in which some or part of the Commission would sit. Different Secretaries have held hearings themselves and others have used the Commission or a part thereof to render decisions. In any case the Commission is the actual signatory to any formal order. Court reporters are used and a complete transcript is made part of the record. Due process access to the District Courts of Montana has been provided for in the act (Section 46-2322, R.C.M. 1947). Either the district or the individual may be the initiator and eventually the appellant in these disputes.

A district grazing fee is charged each operator according to the operators AUMs for the payment of the operating expenses of the district. A maximum fee is set out in the by-laws of each district. AUMs are the base units used to indicate each operator's use of the land. It means animal-unit-months or the number of animals the operator runs on the range per month.

In a following example a typical setting of the district grazing fee is portrayed. It should be noted that if there is more than 10 per cent Bureau of Land Management land in the district, then the BLM carrying capacity is accepted for the whole district. (This has been done by tacit agreement with the BLM and is not the result of any court case or ruling; rather it is a form of agreement or "getting along" with the BLM.)

EXAMPLE OF SETTING
DISTRICT FEE PER AUM (Animal Unit per Month)

50,000	AUMs	BLM land according to BLM survey
5,000	AUMs	State land according to BLM survey*
<u>6,000</u>	AUMs	State land according to State survey

District Grazing fee Calculation

50,000	AUMs	BLM** @ .40¢/AUM	=	\$20,000
5,000	AUMs	State*** @ .80¢/AUM	=	4,000
		Plus Miscellaneous admin. costs	=	<u>5,000</u>
		(Salaries, Supplies, etc.)		\$29,000

Total district controlled carrying capacity:

BLM-	50,000
STATE-	<u>5,000</u>
	55,000

$$\text{District fee per AUM: } \frac{29,000}{55,000} = 53\text{¢/AUM}$$

By way of summary, the 33 state grazing districts in Montana are self-supporting, self-operating corporations managed by an elected Board of Directors, under the supervision of the Grass Conservation Act, standard by-laws and the Grass Conservation Commission. The Commission can do little more than oversee the functioning of the districts to insure compliance with the law and settle the infrequent disputes which cannot be settled by the parties involved or by administrative action of the Commission Secretary.

Relations With Other Agencies

Among state agencies, the Commission deals most closely with the Department of State Lands and Investments concerning the leasing of state lands for grazing purposes.

In the Angela and Buggy Creek state grazing districts there is a source of borrowed money from the Farmer's Home administration (FHA), thus the Commission contacts that particular federal agency from time-to-time.

The Soil Conservation Service offers technical assistance in the form of setting suggested grazing capacity formulae for the various districts' use.

Relations with the BLM (Bureau of Land Management) are of prime concern to the Commission. BLM manages most or all of the federal lands that might become a part of a district. Therefore, BLM has generally acquiesced in its management to the Commission and thus the districts. Standard agreements between BLM and individual districts run for 10 year periods. Currently, the

*BLM survey will control.

**The are acts by statute for the state.

***Section 81-433 and by separate fee schedule for BLM.

Commission is preparing to renegotiate the terms of this uniform agreement and has endeavored itself rather heavily with the necessary legal assistance in drafting these documents. A Memorandum of Agreement between BLM and the Commission merely restates crucial terms in the Standard Agreement and substantially says that the Commission will administer and cooperate along the agreed terms. Some of these agreements have lapsed between several of the districts and BLM recently. All will be up for renewal by 1972. This is why in the last two years the redrafting of these two documents (Standard Agreement and Memorandum of Understanding) have represented a large portion of the Secretary's time as well as that of the Commission. It might be of interest that, for some years, this has been an issue between federal and state agencies for control over the federal land which was defaulted to the state districts for range management administration. Only recently has the BLM attempted to reassert its control over these lands; actually it appears the BLM wants to establish controlled federal districts. Even after the adoption of the Taylor Grazing Act, Montana was the only state to enact a grass conservation act to cooperate with the federal agencies involved. The outcome of the negotiations over the renewal of standard agreements will either continue the current control by the State Commission or transfer this responsibility to the BLM. This would occur if the BLM is successful in its federal-state control struggle because approximately 35 per cent of all lands within the districts is BLM land. If this land were withdrawn it would cause a closure of several districts. In turn, this would cause an almost unsupportable strain on those remaining, so much so, it is predicted that the Commission would cease to exist.

OFFICE OF THE STATE FORESTER

STATE BOARD OF FORESTRY

Organization

General

The Office of the State Forester and the first Board of Forestry were created by the Laws of Montana 1909, Ch. 147, Sections 9-25. The State Forester is responsible for the management of stateowned forest lands (under Title 81, Ch. 4, 11, 13, 15, 16, and 22, R.C.M. 1947) and has responsibilities in regard to privately-owned forest lands (Title 28, Ch. 1, 4, and 7, R.C.M. 1947).

The State Forester is responsible to two separate boards in administering forest lands: The State Board of Land Commissioners supervises the State Forester in regard to state-owned forest lands and the State Board of Forestry in regard to privately-owned forest lands. The State Forester, State Board of Forestry, and the State Board of Land Commissioners are discussed below.

Office of the State Forester.

The Office of the State Forester is created in Section 81-1403, R.C.M. 1947. The State Forester heads the office; he is appointed by the Governor, with the advice and consent of the Senate for a four year term (Section 81-1403, R.C.M. 1947). The State Forester is to be technically trained and experienced in forestry and a graduate of an accredited forestry school (Section 81-1403, R.C.M. 1947).

The State Forester is responsible to two separate boards, and is given the following statutory powers and duties to perform:

UNDER DIRECTION OF STATE BOARD OF LAND COMMISSIONERS

- (1) Do all the field work in the selection, location, examination, appraisalment and reappraisalment of state timberlands (Section 81-1411, R.C.M. 1947).
- (2) Perform all acts required of him (Section 81-1411, R.C.M. 1947).
- (3) Have general charge of timberlands of the state (Section 81-1411, R.C.M. 1947).
- (4) Execute all matters pertaining to forestry within the jurisdiction of the state (Section 81-1411, R.C.M. 1947).
- (5) Have charge of all fire wardens of the state and aid them in their duties (Section 81-1411, R.C.M. 1947).
- (6) Direct the protection, improvement and condition of state forests (Section 81-1411, R.C.M. 1947).
- (7) Take such action as is authorized by law to prevent and extinguish forest, brush and grass fires (Section 81-1411, R.C.M. 1947).

(8) Enforce laws pertaining to forest and brush-covered lands and prosecute for violation of such laws (Section 81-1411, R.C.M. 1947).

(9) Furnish notices calling attention to the danger of forest fires, and to the forest fire and trespass laws and their penalties (Section 81-1411, R.C.M. 1947).

(10) Select and designate a brand to be used on trees, lumber, etc. seized under Title 81, Ch., R.C.M. 1947.

(11) Sell timber crop and other crops of the forests (Section 81-1404, R.C.M. 1947).

(12) Administer miscellaneous powers of State Board of Land Commissioners (Title 81, Ch. 11, R.C.M. 1947) when they apply to state forests.

(13) Administer leasing of state lands when they apply to forests (Title 81, Ch. 4, R.C.M. 1947).

(14) Investigate any proposed exchange of timbered, cut or burned over lands (Title 81, Ch. 22, R.C.M. 1947).

UNDER DIRECTION OF STATE BOARD OF FORESTRY

(1) Prescribe the form and substance of permits to operate fires in forests during protection season (Section 28-116, R.C.M. 1947).

(2) Enforce statutes and rules and regulations of State Board of Forestry (Section 28-126, R.C.M. 1947).

(3) Represent State Board of Forestry in organizing fire protection districts (Section 28-126, R.C.M. 1947).

(4) Coordinate between State Board of Forestry and other agencies (Section 28-126, R.C.M. 1947).

(5) Advise State Board of Forestry and other agencies (Section 29-126, R.C.M. 1947).

(6) Declare existence of zones of infestation (Section 28-133, R.C.M. 1947).

(7) Abolish zones of infestation (Section 28-134, R.C.M. 1947).

(8) Provide for fire protection of any forest lands (Section 25-105, R.C.M. 1947).

(9) Prepare for fire protection plan (Section 28-111, R.C.M. 1947).

(10) Request Legislature to appropriate funds for state share of

fire protection costs (Section 28-111, R.C.M. 1947).

(11) Annually list land owners who do not have fire protection (Section 28-111, R.C.M. 1947).

(12) Submit statement to county assessor on amount due for fire protection of those who have not provided for protection from other means (See 11 above) (Section 28-111, R.C.M. 1947).

(13) Act as secretary to the State Board of Forestry (Section 81-1411, R.C.M. 1947).

INDEPENDENT OF EITHER BOARD

(1) License operation of portable sawmills upon forest lands and revoke some (Title 81, Ch. 15, R.C.M. 1947).

(2) Suspend cutting or removal of timber for breach of sales agreement (Section 81-1406, R.C.M. 1947).

(3) Supervise all timber before it is cut (Section 81-1408, R.C.M. 1947).

(4) Appoint fire wardens (Section 81-1412, R.C.M. 1947).

(5) Appoint and fix salaries of office help, district foresters, fire wardens, cruisers, scalers, slush disposal men, etc. (Section 81-1403, R.C.M. 1947).

(6). Enforce law requiring bill of sale to transport more than 10 conifers (Title 28, Ch. 7, R.C.M. 1947).

(7) Enforce law concerning slash burning (Title 28, Ch. 4, R.C.M. 1947).

State Board of Land Commissioners*

The State Board of Land Commissioners was created by the Montana Constitution, Article XI, Section 4. The Governor, Superintendent of Public Instruction, Secretary of State, and Attorney General are designated as members of the Board. The Land Board has the constitutional duty of direction, control, and supervision of all state lands including state forests** State forests are specifically designated to be administered by the State Forester*** who is to have the "general charge of the timberlands of the state." (Section 81-1411, R.C.M. 1947).

*A further description of the State Board of Land Commissioners is found in the staff report on the Department of State Lands and Investments.

**According to Section 81-1401, R.C.M. 1947, state forests are all state lands which are principally valued for the timber on them, for water shed protection or for the growing of timber, are designated as state forests, and are reserved for forest production and water shed protection. These lands are not subject to sale.

***The Commissioner of State Lands and Investments is the chief administrative and executive officer of the State Board of Land Commissioner in all matters except those pertaining to the state forests. (Section 81-1201, R.C.M. 1947).

Thus, it is the Land Board to whom the State Forester is responsible in matters concerning state lands solely. Section 81-202, R.C.M. 1947, states as follows:

The State Forester shall be the chief administrative and executive officer under the board in all matters pertaining to the state forests. His powers, duties, qualifications, compensation and entire status shall be as now provided by law.

According to Section 81-140, R.C.M. 1947, the purposes of the Board of Land Commissioners and the State Forester, as they pertain to the forested state lands, are:

- (1) To hold the lands in trust in support of education and for the attainment of other worthy objectives helpful to the well-being of the people of the state of Montana;
- (2) To administer this trust so as to secure the largest measure of legitimate and reasonable advantage to the state; and
- (3) To manage these lands under the multiple-use management concept.

As a practical matter, the Land Board regulates the State Forester in the following manner: approving timber sales (approves State Forester recommendations about once a month); approving sale of minerals beneath forested lands (infrequently); and generally approving activities of the State Forester which are performed in regard to State-owned forest lands.

State Board of Forestry

The Montana State Board of Forestry was created in 1939 (Laws of Montana 1939, Ch. 128). The law governing the Board is codified in Title 28, Chs. 1 through 7, R.C.M. 1947. The Board was created for the purpose of protecting and conserving the forest resources, forest range and water, regulating stream flow, preventing soil erosion and promoting and facilitating cooperation with other public and private agencies that foster similar work (Section 28-101, R.C.M. 1947).

The secretary and administrative officer of the State Board of Forestry is the State Forester.

The Board is composed of eight members, including the Governor, who is ex-officio chairman. The remaining seven members are appointed by the Governor for four year terms and represent the following groups:

- (1) The Water Resources Board;
- (2) One elector on the joint recommendation of both the BFPA (Blackfoot Forest Protective Association) or the NMFA (Northern Montana Forestry Association);

(3) One elector on joint recommendation of the Stockgrowers' Association and the Woolgrowers' Association;

(4) One elector, a representative farm woodland owner appointed by the Governor from individual recommendation of the three farmers organizations--the State Grange, Farm Bureau Federation and the Farmers' Union;

(5) One elector on the recommendation of the Lumber Manufacturers' Association;

(6) One elector on the faculty of the School of Forestry at the University of Montana upon the President's recommendation; and

(7) One elector on the recommendation of the Region I Regional Forester, U. S. Forest Service (Section 28-101, R.C.M. 1947).

The Board itself receives no appropriation from the state, but Board members receive expenses, from the appropriation of the State Forester, for attending meetings.

There are two statutory meetings required a year (Section 28-101, R.C.M. 1947), and occasionally a special meeting on a special project or sub-committee task force is held, according to a current member. The meetings are usually held in Helena during July and November, but occasionally they are held at the Youth Forest Camp at Swan River or some other appropriate place.

According to the State Forester's 1969 Annual Report to the Governor, the purposes of the State Board of Forestry are:

(1) To protect and conserve the forest resources and water sheds of the state from destruction by fire and from destruction by insects and disease;

(2) To enhance the production of the forest lands;

(3) To promote the stability of the forest industry;

(4) To give technical and practical assistance to private land owners of the state in respect to soil and forest conservation and the establishment and maintenance of wood lots and wind breaks; and,

(5) To assist the State Board of Land Commissioners in the protection, economic development, and use of state forests and forest lands held by the state for the benefit of the common schools and state institutions.

Below is an analysis of the specific statutory powers and duties of the Board; the powers and duties are divided into three categories: quasi-judicial, quasi-legislative, and administrative.

Quasi-judicial

The quasi-judicial powers of the Board are as follows:

(1) To hold hearings to create organized forest fire protection districts (Section 28-105 (b) R.C.M. 1947). There are about eight or so such districts, and one was created by the Board in 1970. The Board itself has never held a hearing for this purpose. All hearings, together with other duties involved in the formation of fire protection districts, are performed by the Forester.

(2) To hold hearings concerning payments made under protest for costs of forest protection (Section 28-112, R.C.M. 1947). No hearing has ever been held under this section.

(3) To hold hearings for forest land owners who request hearings, on any subject pertaining to the activities of the Board affecting such owners' land (Section 28-129, R.C.M. 1947). Over the last 18 years, there have only been two or three such hearings, the State Forester recalls, and none in the recent past.

(4) To enjoin anyone in violation of fire hazard or slash laws, rules or regulations (Section 28-403, R.C.M. 1947). There has never been an injunction filed by the Board under this statute.

The four quasi-judicial powers of the Board of Forestry exist (Section 28-129, R.C.M. 1947), but in only one instance have they ever been used (two or three hearings). In two other cases they have never been exercised and, in one, the power has been defaulted to the State Forester (Section 28-105, (b), R.C.M. 1947).

Quasi-Legislative

The enumerated quasi-legislative or rule-making powers of the Board include the power:

(1) To make reasonable rules and regulations for enforcing and accomplishing the purpose of the Act (Section 28-105 (d), R.C.M. 1947). Rules were adopted by the Board in 1939-40. They were revised in 1947, 1958-59 and most recently in 1967-68. Revisions have been developed at staff level and approved by the Board.

(2) To prescribe reasonable rules and standards for adequate fire protection (Section 28-109, R.C.M. 1947). The Board has never done this, and the State Forester indicates they could not in fact make such an all-encompassing definition and set standards for "adequate fire protection."

(3) To establish the portion of planned fire protection costs to be borne by state and private owners (Section 28-111, R.C.M. 1947). This has never been done as such by the Board, the Forester reports, but is done indirectly through his office. As indicated under point (3) of administrative powers below, the fire protection plan is as yet incomplete.

(4) To issue regulations concerning the burning of sawdust at sawmills (Section 28-119, R.C.M. 1947). The Board has never issued any regulations and the State Forester administers this function.

(5) To classify and modify such classifications of forest lands for fire protection purposes (Section 28-105 (a) R.C.M. 1947). The original classifications were approved by the Board after preparation by the State Forester and have been continually revised upon staff preparation and presentation by the State Forester.

(6) To issue rules and regulations concerning slash disposal (Section 28-401, R.C.M. 1947). The Board has never carried out this function; rather, it approved, once, the manual prepared on the subject by the State Forester.

(7) To provide rules and regulations concerning fire hazard reduction or management created by cutting of forest products on private lands (Section 28-408, R.C.M. 1947). The State Forester indicates the Board approved rules and regulations as prepared by the State Forester.

Administration

The remaining powers of the Board are administrative in nature; they include the power:

(1) To approve the costs of fire protection to be assessed by county treasurers for classified land owners (Section 28-109, R.C.M. 1947). Every year the Board approves what the State Forester presents (of late, almost always the 10¢/acre/year for Class I land and 3¢/acre/year for Class II land maximum provided by law) to it.

(2) To approve the State Forester's fire protection plan (Section 28-111, R.C.M. 1947). Practically, this has never been done due to the fact the State Forester has been going through some nine steps of preparation which commenced in 1959 and are as yet to be completed.

(3) To cause an assessment to be made by the County assessor for fire protection due and owing from owners of classified lands each year (Section 28-111, R.C.M. 1947). This is done each year based on the recommendation of the State Forester.

(4) To approve the Secretary's list of delinquents above (Section 28-111, R.C.M. 1947). In conjunction with the foregoing power to assess, the Board approves the list of delinquents prepared by the Forester and forwarded to the several county assessors.

(5) To direct the expenditure of funds for fire prevention, detection, and suppression (Section 28-123, R.C.M. 1947). The Board, as a practical matter, never sees the budget or is in any way directly involved with expenditures of funds; the State Forester accomplishes this task.

(6) To request and approve the pay out of "co-op" (fire protection cost) moneys collected under Section 28-111, R.C.M. 1947 (Section 28-124, R.C.M. 1947). The Board, again, has never performed this function. It is done by the State Forester.

(7) To assist the Land Board in the protection, economic development and use of state forests and forest lands (Section 28-107, R.C.M. 1947). This has been done once in a 1954 study and report in conjunction with the Land Board. There is practically no contact between the two Boards.

(8) To require a county attorney to institute action for a forest fire protection lien on the land against the forest land owner (Section 28-113, R.C.M. 1947). This has never been performed by the Board.

(9) To authorize certain fire wardens or peace officers to issue burning permits during fire seasons (Section 28-114, R.C.M. 1947). This has never been done by the Board. It is performed by the Forester.

(10) To prescribe the form and substance of the burning permit mentioned above with the assistance of the State Forester (Section 28-116, R.C.M. 1947). The Board merely approves permits submitted by the Forester.

(11) To act as ex-officio fire wardens (Section 28-125, R.C.M. 1947). The Board members have never really served in this capacity.

(12) To judge with the State Forester the forest land with enough forest growth to be considered an insect breeding ground and thus a menace in a zone of infestation (Section 28-131, R.C.M. 1947). The Board has done this from time-to-time as the Forester drafts or sets out the zone and presents it to the Board for its approval.

(13) To approve the Forester's manner of suppression and eradication in a zone of infestation (Section 28-133, R.C.M. 1947). The Board merely approves the Forester's recommendations.

(14) To advise and grant written consent wherever the State Forester determines the zone of infestation should be abolished as no longer necessary (Section 28-134, R.C.M. 1947). This function has been performed by the Board upon the recommendation of the Forester whenever the zones of infestation have been eradicated or neutralized.

In addition to the quasi-judicial, quasi-legislative, and administrative duties discussed above, the State Board of Forestry is to perform the following duties:

(1) To "co-operate" with U.S. agencies (Section 28-105 (e), R.C.M. 1947). This is performed by the Office of the State Forester

with some 15-20 contracts stipulating the cooperative arrangements between the Forester and other agencies such as the U. S. Forest Service.

(2) To function in an advisory capacity with the Water Conservation Board (now Water Resources Board) and other agencies in the development, protection, and conservation of forest, range and water resources (Section 28-102 R.C.M. 1947). The Board participated in the 1954 study with the Land Board; this is the only such advisory function the State Forester can recall that the Board performed.

(3) To give technical and practical advice to farmers concerning soil and forest conservation and the establishment and maintenance of woodlots, windbreaks, and shelters (Section 28-106, R.C.M. 1947). This refers to the cooperative Forest Management program of the State Forester and as a practical matter is done by him rather than the Board.

It is apparent from the foregoing that some of the powers of the Board are not performed at all and those that are actually performed are either performed by the administrative agency--the Office of the State Forester--or the Board merely gives formal approval to the recommendations of the State Forester.

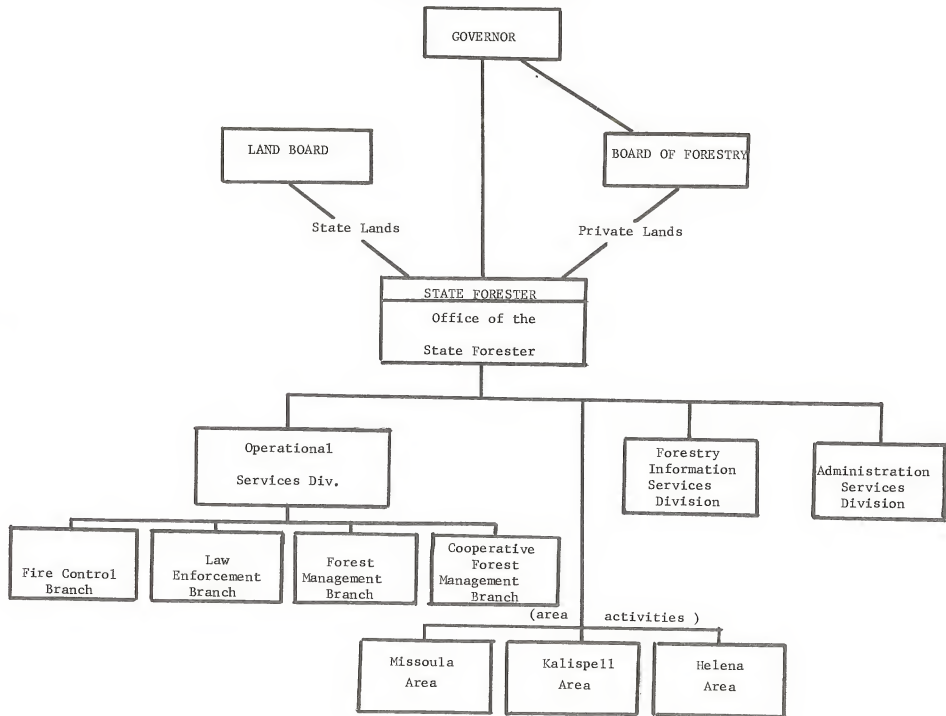
On the following page is an organization chart of the Office of State Forester.

In the past the State Forester has referred legal questions to the Attorney General's office. Early this fiscal year a staff attorney was hired as a full time employee with the title of "Law Enforcement Branch Chief". It is contemplated the attorney will spend his time as follows: about 50 per cent in legal assistance to the State Forester and the Office researching and drafting memoranda of law, internal opinions and proposed legislation; about 45 per cent with law enforcement, including the preservation of evidence relative to violations and training and reviewing applicable statutes with various personnel; and, about 5 per cent with safety procedures and training, both IAB (Industrial Accident Board) and internal safety programs.

The State Forester expects that the staff attorney will be the primary source of internal legal assistance to the State Forester and the Office, but that actual trial work will be performed by the Attorney General's office.

The principal office of the State Forester is located at 2705 Spurgin Road, Missoula, Montana. The State Forester also has area headquarters near Helena, Kalispell, Anaconda, Swan Lake, and Whitefish.

Office of State Forester



Funding and Personnel

Total expenditures of the Office of State Forester in the 1967-69 biennium were \$2,212,751. This compares with appropriation for the 1969-71 biennium of \$2,308,493--an increase of 4 per cent, as shown in the chart below:

Expenditures, Office of State Forester, By Program, And Object, Fiscal Years 1968-71

	<u>Expenditures by Program</u>			
	<u>1968</u>	<u>1969</u>	<u>1970</u>	<u>1971*</u>
Administration	\$ 117,145	\$ 177,883	\$ 139,475	\$ 153,228
Cooperative Forest Management	66,484	60,043	86,242	139,865
Fire Protection	507,858	491,569	561,537	802,148
Nursery	49,749	50,939	64,095	62,237
Slash & Brush Disposal	150,168	164,647	192,258	233,366
Forest Management	111,500	158,707	191,761	223,658
Neighborhood Youth Corps.	39,384	-0-	-0-	-0-
Youth Forest Camp	<u>20,462</u>	<u>46,213</u>	<u>38,829</u>	<u>44,550</u>
Total Programs:	\$1,062,750	\$1,150,001	\$1,274,199	\$1,659,152

<u>Expenditures by Object</u>				
Personal Services	\$ 527,257	\$ 491,690	\$ 621,978	\$ 772,646
Operation	194,469	240,186	280,758	330,472
Capital	28,692	140,062	71,953	173,993
Grants and Benefits	<u>312,332</u>	<u>278,063</u>	<u>299,507</u>	<u>382,041</u>
Total Objects	\$1,062,750	\$1,150,001	\$1,274,199	\$1,659,152
Biennial totals:	<u>\$2,212,751</u>		<u>\$2,933,351</u>	

Of the \$2,308,493 appropriated to the State Forester for the 1969-71 biennium, \$1,313,511 was from the General Fund, \$676,982 was from various accounts in the Earmarked Revenue Fund, and \$318,000 was from various accounts in the Federal and Private Revenue Fund.

The state forest lands also generate funds for the state. According to the September 1, 1970 Annual Report of the State Forest, the state forest lands generated \$864,286.13 in fiscal year 1970.

The Office of the State Forester employs 67.00 permanent employees (FTE) distributed by program as follows:

Administration	12.15	F.T.E.
Cooperative Forest Management	11.30	
Fire Protection	17.75	
Nursery	2.20	
Slash and Brush Disposal	3.75	
Forest Management	15.60	
Youth Forest Camps	<u>4.25</u>	
	67.00	F.T.E.

* 1971 figures are estimated

In addition, temporary employees, particularly in the summer, raise the employment level of the office. In the summer of 1970 the total employment, including temporary personnel, reached 134. This total does not include 27 work-study employees from the University of Montana.

Description of Programs

Administration

General. The Administrative program was established by the laws establishing the Office of the State Forester, which are cited at the beginning of this report. The purpose of this program is to provide and integrate plans, policies and standards for the administration of the Office of State Forester. The program is financed by state appropriations and federal cost sharing.

Description. The Office's administration program includes all activities relating to the formation, management and direction of the several programs of the Office of the State Forester and is charged with the day-to-day administrative duties of the office. The program specifically is designed to formulate plans and programs; develop and enforce policies and standards; select and train personnel; integrate the use of real estate, vehicles, equipment, and manpower; prepare budgets and financial plans; select and make purchases; and keep all records and reports required by the state government, cooperating agencies and individuals of the operations of the Office of the State Forester.

Funding and Personnel. The administration program expended \$295,028 in the 1967-69 biennium and anticipates expending \$292,703 in the 1969-71 biennium as is shown below:

Expenditures - Administration Program

<u>1968</u>	<u>1969</u>	<u>1970</u>	<u>1971(estimated)</u>
<u>\$117,145</u>	<u>\$177,883</u>	<u>\$139,475</u>	<u>\$153,228</u>
Biennial Totals:	<u>\$295,028</u>	<u>\$292,703</u>	

The program requires 12.15 permanent employees (FTE).

Cooperative Forest Management

General. The Cooperative Forest Management Program is made up of the Service Forestry program, the Resource Conservation and Development Project and the Forest Utilization program.

The Cooperative Forest Management program is primarily aimed toward providing assistance to the forest landowner and the processor of raw forest material.

Description. 1) Service Forestry Program

Twenty-four per cent of Montana's 15,727,000 acres of commercial forest land is in small private ownership. Fourteen thousand farmers, ranchers, and businessmen own 3,771,000 acres of Montana's commercial forest lands capable of providing one-third of the state's annual timber harvest. These lands generally do not produce as they should. In many cases lands have been abused, overcut, overgrazed, and have suffered from attempts to convert them to uses for which they are not suited.

A major goal of the Cooperative Forest Management Service Forestry Program is to assist ranchers and farmers in saving this land and restoring it to its best potential of producing forest products.

The more specific aims of the program are to:

- 1) Maintain and improve the productivity of privately owned timber lands
- 2) Integrate the management of these lands with other farm crop lands
- 3) Increase owner income, and
- 4) Maintain a continuous flow of raw forest products to stabilize local industries.

The program furnishes the small private landowner with technical advice pertaining to the management of his land for forestry purposes. Professionally trained service foresters meet with the landowner on his land to provide on-the-ground guidance, and help him draw up simple forest management plans. They teach the owner to properly select and mark trees to be cut, estimate timber volume, determine proper cutting methods, market forest products, establish or re-establish forest stands, thin, and protect his timber from fire, insects, and disease. The technical assistance is restricted to woodlands or potential woodlands (i.e., plantable areas), including shelterbelts. Areas with horticultural or ornamental tree problems do not qualify.

Most of the work carried out under this program involves small forest properties where the owners wish to do their own forestry work. In some instances the kind of work, or more usually the amount of work required, indicates that it was desirable to have the landowner employ a full or part-time forester. In such cases the landowner is advised of this fact and is given assistance in locating a qualified private consulting forester.

Presently, Service Foresters are located in Missoula, Kalispell, Plains, Hamilton, and Helena. Since 1955, when the program was begun, requests from farmers and ranchers for assistance averaged 317 per year. Four hundred forty-one requests were received in 1967 and 470 in 1968, indicating that the demand for the program is growing.

2) Resource Conservation and Development Project

The purposes of the Resource Conservation and Development project are:

- 1) To develop and protect natural and human resources to their full potential
- 2) To accelerate application of practices to protect the area's soil and water resources
- 3) To establish close working relationships with those now associated in community development, and
- 4) To develop recreation enterprises.

The Farm Forester assigned to the Bitterroot Valley Resource Conservation and Development Project provides technical forestry assistance to woodland owners throughout the Bitterroot River drainage.

Since January 1, 1966, a Service Forester has been assigned to the project to prepare the forestry portion of the work plan which contains: 1) the acreage of timber by ownership, size, class, species and stocking; 2) a listing by ownership, size, class and species of volumes in thousand board feet for sawtimber, and thousand cubic feet for pole timber; 3) annual growth and annual harvest over a five year period; 4) a timber-type classification map; 5) problems and opportunities on woodland within the project area.

Non-reserved commercial forest lands cover 62 per cent of the project area. Since effective management of timber lands poses many problems, the Service Forester is directly involved in helping the landowners of the valley solve these problems.

3) Forest Utilization

The forest products utilization function of the State Forester's Office is designed:

- 1) To encourage full and effective use of the timber resource for the maximum benefit to the state's economy and well-being
- 2) To raise the economic level of the forest land areas by encouraging employment of more people and locating more markets for the products of the forest
- 3) To enhance wood's competitive position in all fields where wood performs satisfactorily, but particularly in construction
- 4) To expedite acceptance of wood for uses for which it is better suited than non-wood materials, and
- 5) Where the need exists, to assist loggers and wood processors to become more stable in order that they may contribute their full potential to the State's economy.

The Office of State Forester is working to obtain the best forest management attainable on all forest lands in the state. Minimum forest management, as it pertains to fire prevention and suppression on state and private lands, is prescribed by law. The office's most effective contribution to improved forest management on private woodlands is through the CFM Program (U.S. Cooperative Forest Management Act of 1950). Memoranda of understanding between the State and the Forest Service, the State and the State Extension Service, and the State and the Soil Conservation Service have been confirmed and supplemental agreements are added as needed.

The administration and supervision of the CFM projects lie with the Office of the State Forester. This office has responsibilities in selecting and training competent men and is responsible for inspection and followup work of the Service Foresters. The State Forester also provides the following:

- 1) Technical assistance in forestry and project program planning
- 2) Suitable equipment needed by the Service Forester
- 3) Adequate field and office supplies
- 4) Adequate transportation facilities
- 5) Office space, and
- 6) Personnel management.

The U.S. Forest Service CFM Program administrator assists the Office of State Forester in financing the projects and in the training and inspection programs. The Forest Service is responsible for checking proper expenditures of federal funds and for technical standards. The Forest Service provides pertinent technical information and forest research work in the Cooperative Forest Management Program.

There is a memorandum of understanding between the Office of State Forester and the Extension Service, under which the latter assists in the program. The Extension Service is the educational agency of agriculture in the state. Since it is difficult to draw a line between education and service, the Service Forester and Extension Agent work together closely to coordinate their respective fields of work locally. In fulfilling its educational and demonstrational re-sponsibilities the Extension Service:

- 1) Performs those functions outlined in the aforementioned memorandum of understanding
- 2) Assists the Office of State Forester and U.S. Forest Service in furnishing necessary subject matter on farm forestry
- 3) Prepares and submits to local papers news stories to encourage adoption of good forestry practices, and
- 4) Assists in preparing and presenting radio and TV programs helpful to the Cooperative Forest Management Program.

Memoranda of understanding have also been signed with the majority of the Soil Conservation Districts throughout the state. The Soil Conservation District is a legally formed group of landowners desiring to practice sound land management activities on their holdings. The Office of State Forester, through the CFM program, provides the technical advice to Soil Conservation Districts on all forestry phases of farm conservation work. These Soil Conservation Districts provide a sound base on which to establish the private land forestry program.

The Agricultural Conservation Program (ACP) is a federal cost sharing program designed to aid the farmer and rancher in conservation improvements on his land. Cost sharing provides payments for conservation improvements that normally cannot be financed as part of the overall farming operation. In the field of forestry, ACP provides cost sharing on three major practices at the present time:

- 1) block planting
- 2) shelterbelt planting
- 3) stand improvement.

The State Forester has been designated through the service forestry program as technical advisors on the block placing and stand improvement practices. These practices provide the Service Forester with a tool to help the private landowner practice better forest management on his woodlot. The ACP is an annual program and may vary considerably every year.

The Service Forester actually provides technical services to private forest landowners, operators and processors of primary forest products, with respect to the management of forest lands and the harvesting, marketing and processing of forest products.

There are two primary factors which have weight in judging priority for working on requests: (1) the owner - his interests, needs and intentions; and (2) the woodland property - stand condition and management needs. Other factors are: markets for crops such as poles, piling and Christmas trees; and effort of weather on management accomplishments. Keeping the objectives of the program in mind, the priority of requests based upon preliminary knowledge of the woodland can be grouped as follows:

First Priority - Requests for assistance by woodland owners who have forest stands in need of immediate management. For example: (1) prevent premature or destructive cutting, (2) restore production by planting or seeding, (3) ACP requests, (4) inventory and planning work necessary to secure loans, or (5) protect from fire or grazing damage;

Second Priority - Requests for assistance by woodland owners who have forest stands in which the management needs are other than above; and,

Third Priority - Incidental requests such as advice on ornamental or shade trees.

Funding and Personnel. The Cooperative Forest Management Program expended \$126,527 in the 1967-69 biennium and anticipates expending \$226,107 in the 1969-71 biennium as is shown below:

<u>Expenditures - Cooperative Forest Management</u>			
<u>1968</u>	<u>1969</u>	<u>1970</u>	<u>1971</u>
<u>\$66,484</u>	<u>\$60,043</u>	<u>\$86,242</u>	<u>\$139,865</u>
Biennium Totals:	<u>\$126,527</u>		<u>\$226,107</u>

The program requires 11.30 permanent employees (FTE).

Fire Protection

General. The Fire Protection Branch is one of four sub-divisions of the Division of Operational Services. The purpose of the Branch, according to the Branch Chief, is to provide adequate forest fire protection to all state and privately owned forest and related water shed land within the state. Authority for the program is found in the Montana Constitution, Article 19, Section 3, Sections 28-101 through 28-129, Section 28-401, Section 28-412 Section 28-602, Section 28-604, Section 81-202, Sections 81-1401 through 81-1506 and Sections 94-3327 through 94-3329, R.C.M. 1947.

Description. There are twelve areas of responsibility which fall under the supervision of the Fire Protection Branch: fire presuppression plans; fire suppression plans and coordination; fire control training; rural fire coordination; fire reports; fire damage appraisals; protection agency coordination; financial functional manuals; functional planning; safety; and training.

State fire laws (Sections 28-103, 28-104, 28-110 and 82-1236, R.C.M. 1947) require that the forest land owner, public or private, must furnish protection against the starting or existence of fires and must suppress the spread of fire during the forest fire season. The State Forester, as Secretary to the Board of Forestry, is responsible for the administration of the fire laws concerning private lands within the state. Under the State Board of Land Commissioners, the State Forester is responsible for the administration of the fire laws concerning private lands within the state. Under the State Board of Land Commissioners, the State Forester is responsible for the protection of state owned lands from forest and range fires.

Within Montana there are approximately 13 million acres of state and privately owned forest lands. According to the Branch Chief of the Division of Operational Services, in fiscal year 1970, the Branch had cooperative fire control agreements with 32 counties and 11 national forests covering 10,911 different land owners and 2,746,211 acres of timber and rangelands.

According to the Branch Chief, the problem of protecting forested areas and range lands from fire is increasingly more difficult as residential building in forest areas is providing an increasing fire load. In calendar year 1969 there were 399 fires which burned 1,716 acres of state protected lands; and, of this figure there were 245 man-caused fires accounting for the burning of 814 acres.

The present assessment against forest owners for state fire protection averages 9 cents per timbered acre and 3 cents per rangeland acre. The legal limit (Section 28-109, 28-603, R.C.M. 1947) is 10 cents and 3 cents respectively.

According to the Branch Chief, 75 per cent of his time is expended administering the three basic areas of the Branch. Of this time, approximately 30 per cent is expended supervising personnel involved with the protection of state lands which in turn coordinate state programs with federal programs, coordinating one state forest area with another, upgrading the level of State Forester protection to state lands and coordinating prison crew assistance, national guard assistance, Fish and Game assistance, and fire control training programs; 35 per cent is expended supervising programs for county lands receiving fire protection from the State Forester, working on rural fire coordination, and upgrading all county fire protection programs; and 10 per cent is expended

supervising personnel in the supporting service area. Under supporting services are found the equipment division which provides equipment to the State Forester and to the counties for fire suppression work and provides field repair services on equipment being used for fire suppression; aerial services, which involve the employment of a pilot and aircraft for observation flights over state and private lands protected by the State Forester. (Aerial services involve not only detection but transportation of men and equipment as needed throughout the state.)

The remaining 25 per cent of the Bureau Chief's time is expended attending public meetings, county commission meetings, firemen's meetings, distributing information about cooperative programs and planning for the overall operation of the Branch.

The State Forester is responsible for all state and privately owned lands organized or eligible to be organized for protection under Section 2 of the Clarke-McNary Act and such other lands the State Forester now protects under formal agreements or otherwise. The State Forester (as Deputy Civil Defense Director in charge of Fire Section) is responsible for the organization, mobilization and integration of fire fighting equipment and personnel to assist in controlling fires in the forest, grazing, rural and urban lands of the state of Montana.

The Rural Fire Defense Plan would be activated in the event of an enemy attack by order of the President of the United States (Title 3 of Public Law 920) or by the Governor of Montana (Montana Civil Defense Act. of 1951/House Bill No. 392) upon the recommendation of the State Civil Defense Director, or should the State Civil Defense Director become inoperative, by a State Rural Fire Defense Committee.

The Fire Protection Program expended \$999,427 in the 1967-69 biennium and anticipates expending \$1,363,685 in the 1969-71 biennium as is shown below:

Expenditures - Fire Protection

<u>1968</u>	<u>1969</u>	<u>1970</u>	<u>1971</u>
<u>\$ 507,858</u>	<u>\$ 491,569</u>	<u>\$ 561,537</u>	<u>\$ 802,148</u>
Biennial Totals:	<u>\$ 999,427</u>		<u>\$ 1,363,685</u>

The program requires 17.75 permanent employees (FTE).

Nursery

General. The State Forester maintains a forest tree nursery to produce and distribute seedling trees and shrubs for forest, windbreak, shelterbelt, wildlife and other conservation plantings on state and privately owned lands within the state.

The State Forest Tree Nursery was established in 1927. The nursery operation was a part of the Montana Forest and Conservation Experiment Station, under the jurisdiction of the University of Montana, School of Forestry. Jurisdiction of the nursery passed to the Office of the State Forester from the University on July 1, 1963.

The purposes of the State Forest Tree Nursery are:

- (1) Production of seedling trees for farm and ranch windbreak, shelterbelt and woodlot plantings in Montana;
- (2) Production of conifer stock for planting on Montana state-owned forest lands;
- (3) Production, under special arrangements, of seedling trees for forest planting by other agencies and companies which cannot be supplied by commercial nurseries.

Description. The State Forest Tree Nursery is financed by income from the sale of seedling trees (approximately 66 per cent); federal assistance made available through provisions of the Section 4 of the Clarke-McNary Act (approximately 14 per cent); and General Fund appropriation (approximately 20 per cent). As seen, the largest share of the income for the program is from the actual sale of trees. Sale income can fluctuate widely depending on the demand in a given year. This is compounded by the fact that a three year period elapses between the time of seed collection and the sale of trees grown from the seed (with the exception of transplanted conifers intended for windbreaks). Another variable is that the demand for trees on the part of private landowners depends to a great extent on other farming conditions such as weather, farm prices and current economic conditions. In planning for future need, plans are made to meet the estimated maximum demand for tree seedlings three years hence.

The office has indicated that in fiscal year 1970 there were 698 orders filled representing approximately 1,421,050 trees (worth \$37,000).

Funding and Personnel. The Nursery Program expended \$100,688 in the 1967-69 biennium and anticipates expending \$126,332 in the 1969-71 biennium as shown on the following page:

Expenditures - Nursery

	<u>1968</u>	<u>1969</u>	<u>1970</u>	<u>1971</u>
	<u>\$49,749</u>	<u>\$50,939</u>	<u>\$64,095</u>	<u>\$62,237</u>
Biennial Totals:	<u>\$100,688</u>		<u>\$126,332</u>	

The program requires 2.20 permanent employees (FTE).

Slash and Brush Disposal

General. The Slash and Brush Program is within the Division of Operational Services under the branch of Forest Management. The purpose of the program is to reduce and dispose of the debris left from logging on state and private lands in Montana, as debris left from logging constitute an extreme fire hazard. The program administers state slash* laws to prevent the build up of these fire fuels. Statutory authority for the program may be found in Sections 28-401 through 28-412, 81-1404 and 81-1601, R.C.M. 1947.

Description. Under rules established by the Board of Forestry, the State Forester is charged with the administration and enforcement of the program. A person performing logging operations on state and private land in Montana must sign a hazard reduction agreement provided by the State Forester in which he agrees to comply with the state regulations in this matter. According to the Branch Chief, accumulation of logging slash has been a major contributing factor to the size of most large fires in the last 60 years.

The State Board of Forestry has ruled that slash treatment is to be completed within one year after logging. Persons conducting logging operations may request the state to dispose of the logging debris or may elect to dispose of it themselves.

The amount of slash disposal accomplished, and the method used by the state is dependent upon the bond which has been deposited for this purpose. According to the Branch Chief, this bond does not provide for 100 per cent disposal of all slash in the logging area, nor is it intended that it should. The amount of slash disposal accomplished by the land owner or logging operator is also dependent upon the amount of the bond deposited. The state requires no more of the operator than can be accomplished by the state with an equal amount of money.

The more complete the slash disposal job, the more easily wild fires can be controlled. The land owner can, depending on his objectives, dispose of or require a logging operator to dispose of more slash than required by law.

Upon the completion of the logging operation, the logged area is inspected by a member of the Slash and Brush Program and money deposited by the logger is refunded if he has complied with the slash regulations.

During the 1967-69 biennium \$ 374,583 in bonds was posted, with the state refunding \$79,920 of this amount.

*Slash and Brush are synonymous terms but are used to distinguish between state (brush) and private (slash) lands.

Since 1966, with the approval of the State Land Board, brush disposal fees on state timber sales have been \$2.25 per thousand board feet and the fee for slash disposal is \$1.00 per thousand board feet. According to the Branch Chief, hazard reduction on state and private lands has kept pace with the cutting operations, and has been adequate from a fire protection standpoint.

Funding and Personnel. The Slash and Brush Program expended \$ 314,815 in the 1967-69 biennium and anticipates expending \$425,624 in the 1969-71 biennium as shown below:

Expenditures - Slash and Brush

<u>1968</u>	<u>1969</u>	<u>1970</u>	<u>1971</u>
\$150,168	\$164,647	\$192,258	\$233,366
Biennial Totals:	<u>\$314,815</u>	<u>\$425,624</u>	

The program requires 3.75 permanent employees (FTE).

Forest Management

General. Forest Management includes the programs which deal with timber production and special uses of the state-owned forest lands. These activities are guided by laws enacted over the years by the Legislature.

Forest Management includes the direction of all activities pertaining to the forest in a businesslike fashion, keeping in mind the principle that the lands are held in trust for the support of education, and for the attainment of other worthy objects.

The purposes of the program are:

- 1) To conduct a program on state forest lands which will provide maximum income to the several state school funds on a substained basis.
- 2) To provide for multiple use of state forest lands to include sale of forest products, recreation, watershed protection, grazing and other uses in best interest of the people of the state; and,
- 3) To manage state forest land in such manner as to conserve water, soil, and young stands of timber.

Description.

1) Timber Management.

Timber Management is concerned with the following objectives:

- 1) To remove annually the current growth plus mortality in such manner that the residual stands will remain in a thrifty, productive, or reproducing condition.
- 2) To employ cutting practices which will remove mature and overmature timber on a silviculturally sound basis and provide for regeneration.
- 3) To improve the productivity and composition of young stands of timber.
- 4) To reforest non-stocked forest lands.
- 5) To salvage all fire-killed, blowdown and insect timber as loss occurs.
- 6) To promote the expansion of forest industries within the state by raising the productivity of the state forest lands.

Many of the state's forested lands support large volumes of small mature, over-mature, and suppressed trees in the nine to fourteen inch diameter classes. During recent years this fact has acted as one of the major influences encouraging forest industry to work toward development of methods and equipment with which to harvest and process it. At the same time the markets for stud material, and other small logs, has permitted the State Forester to make sales to dispose of timber made up, largely, of small overmature timber.

The availability of a market for small material has also permitted about two-thirds of the annual cut under sale contracts by the State Forester to be made in stands cut over several years ago. The sales have permitted removal of the residual old-growth trees. On areas not properly restocked, seed trees have been left to provide for regeneration.

The forester has developed roads into areas within and adjacent to the logging areas through the timber sale program in order to remove mature timber, protect the areas from fire, provide access for recreation, harvest blowdown, and thin adjacent young stands.

During the past biennium, intensive reproduction surveys were made in the Swan River State Forest to determine planting needs. These areas will be prepared for planting through the timber stand improvement program and planted by members of the Swan River Youth Forest Camp.

The State Forester's studies have determined that the state forest lands show a 49 per cent stocking; this is higher than prior estimates which suggested that the cut from state lands to be limited to 25 million board feet annually until such time as a complete management plan could be determined.

The 49 per cent stocking, according to the proposed management plan, will permit an annual cut of 35 million board feet. Should the state, through silvicultural activities such as seeding and planting of understocked areas and thinning of overstocked stands, bring the stocking level to 70 per cent, the annual growth could be increased to 70 million board feet per year on a sustained yield basis -- more than twice as much per year as has been cut during the past 10 to 12 years.

State forest lands are supporting 75,950 acres of seedling, sapling, and pole size trees which are overstocked; 48,150 acres which are understocked and 15,780 acres which are not stocked at all. Many lodgepole pine stands are stagnant in the seedling and sapling size classes and will not grow into marketable sized trees. This points out the need for silvicultural treatment.

In 1965 the State Board of Land Commissioners approved an increase of the timber stand improvement fees from 75 cents to \$1.25 per thousand board feet. This is sufficient to do the thinning job in the overstocked stands and do the reforestation needed particularly on the understocked and nonstocked, and burned-over areas.

2) Christmas Tree Sales.

Another duty of the office is the sale of Christmas trees from state forest lands. A ten year Christmas tree sale is planned in an area overstocked with Christmas-tree-size Douglas fir. The ten year sale will allow the operator to thin and prune Christmas trees to provide for a greater harvest of higher quality trees. It is anticipated by the Forester that income will be greatly increased from the area, and, in part, a valuable thinning job will be accomplished.

Several more ten-year Christmas tree sales are planned by the Forester for the future.

3) Forest Management.

The State Forester has management control, under the State Board of Land Commissioners, of almost 800,000 acres of state-owned forest lands.

Management of these lands, in addition to timber sales, stand regeneration, and fire protection, involves problems of access, road use authorizations for others who may need to share the use of roads in back areas, rights-of-way for roads required by other, and for uses such as power transmission lines and pipe lines. Home and cabin sites, group camps, sawmill sites, and similar activities -- make up other uses of state forest land. Much of the state forest land is grazed under authorization.

Timber has been cut from these state lands since before the turn of the century. Volumes cut annually have varied from year to year depending largely upon market conditions and the accessibility of the lands. In 1954, an inventory of timber volumes was begun on the state forest lands. The objective of the inventory was to prepare a management plan which would provide for a sustained annual harvest of timber, a comprehensive reforestation and stand improvement policy, with provisions for multiple income and benefit use.

For the past 12 years, timber sales have averaged 27 million board feet annually. The total income from sales for the 1967-1969 biennium was \$1,209,348, as compared to \$973,000 during the preceding biennium. An active timber stand improvement program is being carried out on the cutting areas. This program includes site preparation for planting and direct seeding, thinning of dense timber stands, and removal of diseased and cull trees.

4) Land Use Authorizations.

The purposes of the land use authorizations are:

- 1) To license state forest land for grazing, homesites, cabin sites, recreation and other purposes in areas suitable for such license and where there is little or no conflict with the growing and sale of forest products.
- 2) To develop recreation areas along rivers, lakes and streams which will provide for joint public and

private use and which will produce sufficient revenue to justify removing the areas from timber production.

The demand for home and recreation sites has been increasing at a rapid rate. Values of private recreation homesites on lakes and rivers as well as adjacent areas also show a proportionate increase. It is apparent that additional areas should be planned for development and additional areas classified for future recreation use and coordinated with other uses in the area.

5) Scaling.

Scaling is the measurement of the contents of logs for the purpose of ascertaining their volume, usually in a "scaling stick", which is lath-like or rectangular in shape and from 3 to 4 feet long.

Under an early law, Montana state timber was sold by volume determined by the Scribner Decimal C log rule. In 1963 this statute was modified by the Legislature to permit the use of converting factors which shall be as nearly as practical equivalent to the Scribner Decimal C log scale. This permits the State Forester to sell timber by sample scaling-by log count, or weight, or both.

The State Forester has moved rather slowly into sample scaling. Careful studies have shown that by use of sample weight, and sample log or load count, scaling can be done more rapidly and more economically than 100 per cent stick scaling, and that it can be done without losing the accuracy necessary to protect the state's interest.

During the past biennium, approximately 60 per cent of the timber sold by the State Forester was sold on the basis of sample scaling.

6) Timber Stand Improvement.

Timber stand improvement is work done to improve a present stand of timber on an area, or to improve a future stand. Its accomplishment may result from any one of several operations such as scarification for seedbed improvement, planting in areas where natural regeneration has failed to establish a stand of trees, thinning in over-crowded, densely populated stand, or pruning to improve log quality. These operations, under present economic conditions, can only be afforded on the better growing sites.

Timber stand improvement projects are financed by a fee of \$1.25 collected on each thousand board feet of timber cut from the state forest lands.

Some financial assistance in the amount of \$29,000 during the past biennium has been available from the federal government through Title IV of the Soil Bank Act.

7) Consolidation of State Forest Lands.

In 1925 the Legislature designated seven state forests, which include about 202,949 acres of classified state forest land. The eighth state forest was designated by the State Board of Forestry in 1970. These lands are what might be called "semi-consolidated" as the state forests contain scattered private lands. It appears to have been the intent of the Legislature, when the state forests were designated, that trades would be made to consolidate the bulk of the state forest land ownership into these areas.

During the 1920's the state was able to consolidate a few blocks. Later some consolidation was effected through exchange of land with the national forests.

Approximately 288,000 acres of Montana's state-owned forest lands are scattered throughout the state in tracts of 640 acres or less. The scattered nature of these lands poses many problems of management which include access, expense of sale preparation and administration, and the loss of revenue through trespass cutting. These problems would be greatly diminished by consolidation.

Exchanges of forest land for consolidation purposes are presently being made by the federal government and forest industry. If the state delays action on an exchange program, the desirable areas will be permanently occupied and the opportunity to consolidate into practical management units will be lost.

During the next biennium the State Forester plans to initiate a program leading to consolidation wherever feasible. The guidelines, established by the 1955 Forestry Advisory Committee*, would be followed.

Funding and Personnel.

The Forest Management Program expended \$270,207 in the 1967-69 biennium and anticipates expending \$415,419 in the 1969-71 biennium as is shown below:

<u>Expenditures - Forest Management</u>			
<u>1968</u>	<u>1969</u>	<u>1970</u>	<u>1971</u>
<u>\$111,500</u>	<u>\$158,707</u>	<u>\$191,761</u>	<u>\$223,658</u>
Biennial Totals:	<u>\$270,207</u>	<u>\$415,419</u>	

The program requires 15.60 permanent employees (FTE).

* The Forestry Advisory Committee, established by the 33rd Legislative Session, reported to the 34th Legislative Assembly on recommendations for a Program for the Administration of the State-owned Forest Resource. This published report recommended that the state take immediate steps to consolidate its timber holding within the boundaries of presently established State Forests and that new forests be designated in the eastern part of the State where other consolidation may be made.

Swan River Youth Forest Camp

General. The operation of the Swan River Youth Forest Camp and its related work program is a joint effort of the State Department of Institutions, the Division of Vocational Rehabilitation and the Office of the State Forester. It was established by the Laws of Montana, 1967, Ch. 320, (codified as Section 80-1403 (10), R.C.M. 1947). The work program was delegated to the State Forester (Section 80-1412, R.C.M. 1947) and it was indicated that this should be carried out in cooperation with the camp superintendent who is from the Department of Institutions. The Camp opened on July 1, 1968.

Not unlike the institution at Miles City, the Forest Camp's purpose is to rehabilitate juvenile delinquents through a program of work experience. The work plan is designed to instill "good working habits" in the boys as opposed to any specific trade or craft.

The Camp was designed to accommodate 50 boys but only 14 are now at the Camp. A recent ruling from the Department of Institutions has ordered all enrollees over 21 back to the prison at Deer Lodge. Previously, enrollees from 18-26 years of age had been housed at the Camp.

Description. The enrollees' basic training at the Camp includes: basic tools, first aid training, forest fire control and tree, plant and animal identification. One hour a day is spent in physical training (calisthenics) and drilling on fire control techniques.

The work plan is effectuated by several crews which are manned on a rotational basis, week-by-week as the names appear on the roster. The crews are:

1. Landscape and campground maintenance
2. Carpentry and building maintenance
3. Forest improvement
4. Clerical
5. Special, including fire fighting and mountain rescue
6. Camp

Currently there are: one boy on the Clerical Crew; one on Landscape; two in Carpentry; four in Forest; and, six in the Camp Crew for the total enrollment of fourteen. The Hot Shot Crew is picked from the total Camp population.

A more detailed description of the various crews follows:

1) Landscape and Campground Maintenance

Landscape and campground crews are trained to clean up the recreation areas and ground surrounding the buildings, to take care of the lawns, shrubbery and flower beds, and to care for the sanitary facilities peculiar to forested areas.

2) Carpentry and Building Maintenance

The carpentry and maintenance crews perform many of the maintenance jobs pertaining to buildings, both at the State Forest Station and the

Youth Forest Camp. They also construct and erect many signs which are needed, not only on the Swan River State Forest, but on areas under the State Forester's supervision.

The enrollees are taught use and care of the basic carpentry tools and of the special tools used in sign making.

3) Forest Improvement

The Forest Improvement crew, usually the largest working crew, is given training in the use of tools pertaining to the jobs that will be undertaken. They include the axe, bow saw, sanding tool, chain saw, and chain bow saw. This crew performs thinning and pruning work on the forested areas.

The crew seeds and plants areas of land which have not come back to forest and does the prescribed burning related to the slash control program.

4) Clerical

Usually one or two enrollees are selected for the clerical staff of the State Forest Station and Youth Forest Camp and are trained in the use of available office machines. They are also trained in communications--in the use of the telephone, radio, and written messages, and in the preparation and maintaining of routine reports, and filing of routine material.

5) Special

The State Forester's organization assisted by the Superintendent, selects top individuals from all the work crews to participate on two crews. One of these is the "Hot-Shot Fire Fighting Crew," the other is the "Mountain Rescue Crew." Members of both crews receive special training. Map and compass, advanced first aid, and advanced communications are taught each crew, plus specialized material pertaining to the crew needs.

6) Camp Crew

The enrollees also assist the permanent personnel with general housekeeping chores, including: lodge clean-up, kitchen detail, laundry detail, maintenance, and general police details as needed.

Funding and Personnel. The Youth Forest Camp Program expended \$66,675 in the 1967-69 biennium and anticipates expending \$83,379 in the 1969-71 biennium as is shown below:

Expenditures - Youth Forest Camp

<u>1968</u>	<u>1969</u>	<u>1970</u>	<u>1971</u>
\$20,462	\$46,213	\$38,829	\$44,550
BIENNIAL TOTALS: <u>\$66,675</u>		<u>\$83,379</u>	

The program requires 4.25 permanent employees (FTE)..

RELATIONS WITH OTHER AGENCIES

FEDERAL AGENCIES

U. S. Department of Agriculture --

Clarke-McNary, Section 2 (1925) Dept. of Agriculture -- Under agreement with the Department of Agriculture, the State Forestry Program receives money for use in fire prevention, presuppression, and suppression on state and private forest and watershed lands. This same cooperative agreement permits the State Forester to secure excess military equipment for conversion to fire fighting purposes.

Public law 79 - National Disaster Bill - Section 13 -- This cooperative agreement permits the Federal government to offer assistance in time of serious forest fire emergency.

Cooperative Forest Fire Prevention Program -- This program is operated by the U. S. Forest Service and National Association of State Foresters and covers the entire United States as what is properly called "The Smokey Bear Program".

U. S. Forest Service --

Master Fire Agreement between State Land Board, Forestry Board and Regional Office, USFS -- under this agreement the Regional Office and all the national forests in Montana cooperate in solving mutual forest fire protection problems.

Bureau of Land Management --

The State Forestry district maintains the same cooperative working agreement with the Bureau of Land Management as with the U. S. Forest Service, mainly because BLM lands are not surrounded by boundaries. However, in Beaverhead County the State Forester under agreements with the Dillon District BLM provides fire protection for BLM lands in the vicinity of Philipsburg.

Bureau of Indian Affairs --

The State Board of Forestry maintains an Agreement and supplies funds to the Flathead Indian Reservation for fire protection on the State and private lands within the Reservation.

U. S. Weather Bureau --

The Weather Bureau on a national basis provides fire weather forecasts. The State Forester maintains an agreement with the local weather bureau station here in Missoula whereby this fire weather information is made available to the Office of the State Forester. The Weather Bureau is presently advising on the construction of a mobile weather unit for the State Forester.

Information from this unit at the site of the fire transmitted to the Missoula Weather Bureau Station will result in a local forecast for the specific fire situation.

STATE AGENCIES -- (MEMORANDA OF UNDERSTANDING)

State Highway Department --

Under this agreement the Highway Department will permit certain types of its equipment to move in to help the State Forester control fire.

State Fish & Game Department --

The State Forestry Department advises the Fish & Game Department on types of equipment and hand tools to use in protecting its lands and also trains Fish and Game personnel as over head personnel in fire control.

Civil Defense --

The State Forester is in charge of rural fire control for the State Civil Defense organization and maintains a section in the State Civil Defense headquarters for use in coordinating fire control activities throughout the State in case of emergency.

National Guard --

As the State Forester has no emergency funds for fire prevention work, under certain conditions explained in the Memorandum of Understanding, the National Guard can supply manpower, kitchens, first aid units, transportation, both air and ground, to alleviate fire emergency.

State Department of Institutions -- Prison --

The Office of the State Forester has trained a selected prison crew for forest fire fighting and provided fire fighting equipment and converted military excess equipment for transportation.

State Department of Institutions - Swan River Youth Forest Camp --

All enrollees at the Swan River Forest Camp are trained in fire control work on state lands.

LOCAL AGENCIES

Boards of County Commissioners --

The present Cooperative Forest Fire Control Program, begun less than two (2) years ago, through which the State Forester provides organization, training and equipment, has expanded to thirteen (13) counties and will continue to grow.

Fire Protection Associations -- Blackfoot Forest Protective Association --

The State Forester for many years has cooperated closely with the

Fire Protective Associations. Recently the State Forester has assumed the fire protection responsibilities of two of the associations. The third one, the Blackfoot Forest Protective Association, has requested the State Forester to assume its responsibilities and this will be effected July 1, 1971.

COUNCIL ON NATURAL RESOURCES AND DEVELOPMENT

Organization

The Natural Resources and Development Council was created in 1953 (Laws of Montana 1953, Sec. 1 at 180). Initially, the Council consisted of 8 members; this number was increased to 12 in 1965, to 14 in 1967, and to 16 in 1969. The present statutory authority for the Council is found in Section 82-3001, R.C.M. 1947, which provides that the Council is composed of: Commissioner of State Lands and Investments; Director of the Department of State Fish and Game; State Forester; Secretary of the Grass Conservation Commission; Director of the Montana Water Resources Board; Executive Secretary of the Oil and Gas Conservation Commission; State Highway Engineer; Director of the State Bureau of Mines and Geology; Commissioner of Agriculture; Executive Officer of the State Board of Health; Director of Planning and Economic Development; Executive Secretary of the State Soil Conservation Committee; Chairman of the Outdoor Recreation Advisory Committee; a member of the Water Well Contractors Examining Board; Secretary of the Water Pollution Council; and, a member of the Sanitarians Registration Council.

The statutes provide that the Council must meet at least once every 60 days in Helena and may hold additional meetings at the request of the Governor (Section 82-3002, R.C.M. 1947). The Council does meet once every 60 days and has held 20 additional meetings since its inception in 1953. In addition to Council members, meetings are attended by members of the Legislature, interested individuals, and the Council's staff.

The Director of the Montana Water Resources Board is the permanent chairman of the Council (Section 82-3002, R.C.M. 1947). A secretary selected by the Council (currently the State Highway Engineer) records minutes of the meetings and notifies the Governor and representatives of the press as directed by the chairman of the Council.

The Council employs a council coordinator and utilizes the services of a landscape architect and an accountant. The accountant receives no salary from the Council as he is a Montana Water Resources Board staff member. The landscape architect is employed on a contracted services basis by the Montana Highway Commission, the Fish and Game Department, and the Montana Water Resources Board; however, services provided by the architect are available to any member of the Council at \$56 per day. Payments for services of the architect are made directly to supporting agencies. The architect has provided services for projects such as: the Giant Springs Recreational Area near Great Falls; the Fishkum Area near Ulm; the Missouri River--Wolf Creek Canyon Recreation Area; improvement of the Capitol grounds in Helena; the Buffalo Jump near Vaughn; and the Governor's Mansion.

The Coordinator, selected by the Governor to serve an indefinite term of office, is supported by funds assessed Council member agencies.

The statutes (Section 82-3003, R.C.M. 1947) provide that the Council's duties are:

(a) Joint consideration of the administrative problems and legislative needs which they have in common particularly, but not exclusively, in regard to natural resources, forestry, land management, state parks, fish and game work, highway construction, and water pollution and floods.

(b) The making of studies for the purpose of devising ways and means for effective coordination of their work, elimination of duplication and overlapping and increased efficiency of administration.

(c) The preparation of reports and recommendations in regard to matters which the governor shall bring to their attention or which, in their judgment, ought to be brought to the attention of the governor.

(d) At each regular meeting of the council, each member of the council shall make a written summary report of the programs or activities of his state agency with regard to water problems in the state. A copy of each report shall be delivered to the governor and to the secretary of the council prior to its regular meetings.

(e) Said meetings shall be open to interested members of the legislature.

(f) Immediately following each meeting, the secretary of the council shall prepare summary minutes and send copies to each member and to the governor.

The Council is solely a coordinating body. Most of its activities are in the form of studies aimed at resolving problems of concern to several agencies of the Council. The Council holds no quasi-judicial hearings and has adopted no rules or regulations. The Council operates no formal programs. Below is an enumeration of all studies and projects engaged in by the Council since its inception in 1953.

Modern Water Code: The Council appointed a committee composed of the Director of the Water Resources Board (chairman), the Commissioner of State Lands and Investments, the Executive Secretary of the State Soil Conservation Committee, the Executive Officer of the State Board of Health, and the Director of the Fish and Game Department to prepare a modern water code for presentation to the 1971 Legislature. The committee furnishes the Council with progress reports at each bi-monthly meeting.

State Water Policy: The Council appointed a committee composed of the Director of the Water Resources Board, the State Forester, the Director of the Fish and Game Department, the Executive Secretary of the

State Soil Conservation Committee, the Commissioner of State Lands and Investments and the Secretary of the Water Pollution Control Council to draft a state water policy.

Smith River Feasibility Study: The study was initiated by House Joint Resolution No. 12 (Laws of Montana 1969 at 1159) which required the Council, with the assistance of the Legislative Council, to conduct an interim feasibility study of the possibility of acquiring state lands in the Smith River Canyon for the purpose of establishing the Smith River Recreational Park. The Fish and Game Department is holding hearings and preparing inventory work, and other Council members are contributing to the study.

Montana Highway 37: The Council considered the relocation of Highway 37 on the East side of Libby Dam. The study was completed by the Director of the Fish and Game Department, the State Highway Engineer, the Commissioner of State Lands and Investments, and the Director of the Water Resources Board in conjunction with the efforts of the U.S. Army Corps of Engineers. The Council recommended that the road between Eureka to Libby be continued as planned and that the Governor be asked to request the U.S. Army Corps of Engineers to assist the Fish and Game Department in a study of winter game range problems and the effects the road would have upon big game.

Prairie Dog Town: The Council was requested by the Governor to find a means of financing the purchase of 80 acres of land to preserve a prairie dog colony near Greycliff. A committee composed of the State Highway Engineer, Director of the Department of Planning and Economic Development, and the Director of the Fish and Game Department, arrived at a tentative solution whereby the Nature Conservancy (a non-profit organization) would purchase the area in question and construct the observation site.

Libby Public Use Plan: The Governor has recently requested the Council to consider the Libby Chamber of Commerce's proposal to commence construction of a regulating reservoir prior to completion of the main project to prevent a decline in Libby's economy.

Mission Mountains: The Council studied the possibility of reclassifying the Mission Mountains Primitive Area to a wilderness area to ensure its continuance in a pristine state. The Council recommended to the Governor that the area be classified as a wilderness area.

Flathead River Scenic Studies: The Wild and Scenic Rivers Act (16 U.S.C.A. 1271 et seq. [1960]) includes the Flathead River as a potential area for inclusion in the National Wild and Scenic Rivers System and the Council is considering reports from the Fish and Game Department on state studies involving the area.

Pesticide Legislation: Legislation in this area is of primary concern to many Council members and the Council considered the matter in March of 1970. The Council will discuss proposed legislation again at a special meeting in October or December.

Hell Creek State Park: Citizens of Jordan, Montana attended the Council's May 1970 meeting and asked the Council to aid them in finding a means of financing construction of an access road to the Hell Creek State Park. The Montana Highway Commission volunteered to furnish pipe and to assist the county in construction of the road. During the study it was pointed out that no agency is responsible for providing access roads into state parks and the Fish and Game Department has begun a proposal for providing access roads which will be considered at the Council's November meeting.

State Rangeland Resources Plan: The State Rangeland Resources Plan is an attempt to coordinate the activities of agencies dealing with grass lands and their management and protection. The Plan was presented by the Steering Committee of the Rangeland Resource Plan. Council members such as the Executive Secretary of the State Soil Conservation Committee and the Secretary of the Grass Conservation Commission were directly involved in the preparation of the plan. The plan would place 90 per cent of Montana's rangeland under intensive management planning; develop stockwater; increase recreational uses for rangelands; and improve wildlife distribution and population by 1980. The plan is to be developed by a coordinator selected and financed by state agencies presently involved in rangeland improvement.

Water Pollution Control Law: The Governor requested the Council to examine Montana's present pollution laws and to develop improved legislation for presentation to the 1971 Legislature. The Council appointed a committee consisting of the Director of the Water Resources Board, the Director of the Fish and Game Department, and the Executive Officer of the State Board of Health to complete the study and present it to the Council upon completion.

Mined Land Reclamation Contracts: The Council appointed a standing advisory committee composed of the State Department of Land and Investments, State Forester, Bureau of Mines and Geology, State Soil Conservation Committee, Department of Planning and Economic Development and the Montana Water Resources Board. The Committee was charged with the responsibility of reviewing 1969 legislation and preparing an agreement which would incorporate the 1969 Montana strip coal mine reclamation statutes. The Committee cooperates and assists the Bureau of Mines in administering the reclamation law and establishing rules and regulations, and has met with representatives of both federal and state agencies of the entire region in order to arrive at uniform state-federal legislation.

Geologic Atlas of the Rocky Mountains: The Bureau of Mines and Geology presented a request from the Rocky Mountain Association of Geologists for contributions in the amount of \$5,000 for printing a geologic atlas. Means of financing this contribution were considered and \$2,500 from member agencies is being raised to help defray publication costs.

Local Planning and Zoning Study Project: This study is being conducted by the Department of Planning and Economic Development in conjunction with the Legislative Council with the objective of reviewing and analyzing existing planning legislation and proposing new legislation where necessary. The Council has supplied comments and suggestions.

The Council Chairman indicated that the Council, whenever possible, issues one statement jointly arrived at by the members of the Council at hearings involving state natural resources. Legislative proposals are also prepared by the Council to prevent duplication of effort on the part of Council members.

Funding and Personnel

The Council received no legislative appropriation in the 1969-71 biennium. The total budget of the Council for the 1969-71 biennium was for the support of the Council Coordinator. The Council expended \$12,861 in fiscal year 1970. The budget for fiscal year 1971 includes \$14,040 contributed by the nine major agencies, \$300 from the smaller agencies and \$939 carried over from fiscal 1970, for a total of \$15,279.

Relations With Other Agencies

The Council has worked with the Corps of Engineers on the public use plan for Libby reservoir and in developing an orderly construction phase for the Libby reregulating dam; the Forest Service on hearings on wilderness areas and other resource related problems; the Soil Conservation Service on Type IV studies and the development of the Montana Rangeland Resource Plan; the Bureau of Land Management exploring the possibility of putting a road through the Bureau's land into Hell's Canyon State Park; the Bureau of Outdoor Recreation to consider the possibility of the Bureau's assistance on the road into Hell's Canyon State Park; the Bureau of Reclamation on various water use projects; and the Geological Survey in making recommendations on topographic mapping.

The Landscape Architect employed by the Council has coordinated his work with the Architecture and Engineering Division on such projects as the Governor's Mansion, Historical Society and the Veteran's Home at Columbia Falls. The Council has cooperated with the Attorney General to develop mined land reclamation contracts.

OUTDOOR RECREATION ADVISORY AND PLANNING COMMITTEE

Organization

At this point, although the Outdoor Recreation Advisory and Planning Committee is provided for by statute (Section 62-404, R.C.M. 1947) and committee members have been appointed by the Governor, the chief of the Recreation and Parks Division of the Fish and Game Department has informed the Executive Reorganization staff that the Committee has not functioned since September 4, 1968. The committee members were not compensated for their services and, according to the Chief of the Recreation and Parks Division, individual members expressed a feeling of frustration that this lack prevented a close enough relationship with the program to effectively advise the Montana Fish and Game Commission in formulating the state-wide outdoor recreation plan sponsored by the Federal Land and Water Conservation Fund Act of 1965 (§ 1 to 7, 78 Stat. 897 [1964]).

The Committee was established by the 1965 Legislature to advise and consult with the Fish and Game Commission on programs initiated by the enactment of the Federal Land and Water Conservation Fund Act of 1965(supra). This act was designed to preserve, develop and assure accessibility of outdoor recreation resources by: (1) providing funds for and authorizing federal assistance to the states in planning, acquisition, and development of needed land water areas and facilities and (2) providing federal funds for the federal acquisition and development of land and recreational areas. Since 1965, the effective date of the Act, 141 outdoor recreation projects have been submitted by Montana, and the state has received \$3,259,216 in federal assistance for planning, acquisition, and development of land water areas and facilities.

The Montana Legislature designated the Fish and Game Commission as the state agency responsible for implementing the Land and Water Conservation Fund Act in Montana and provided that the Outdoor Recreation Advisory and Planning Committee's function was to advise and consult with the Commission on all phases of the Act (Sections 62-402 and 62-404, R.C.M. 1947).

The Montana statutes provide that the Committee shall consist of not more than 20 members appointed and serving at the pleasure of the Governor (Section 62-404, R.C.M. 1947). The Committee is authorized to elect a chairman and other necessary officers (Section 62-404, R.C.M. 1947). While the Committee was functioning, it was composed of 20 active members, and elected a chairman and vice chairman.

The Committee met approximately twice annually in the Fish and Game Department's offices in the Sam Mitchell Building, had no permanent staff or formal organization, and did not seek the advice of legal counsel or advisory groups.

Funding and Personnel

The Montana statutes creating the Committee did not provide for funding or expenditures (Sections 62-401 through 62-404, R.C.M. 1947) and, consequently, the Committee did not employ staff members, receive expenses or per diem, or incur indebtedness.

Description of Program

All Committee activities were included in a program entitled "Montana Outdoor Recreation Activities." The Committee was empowered to advise and consult with the Fish and Game Commission in preparing a comprehensive state-wide outdoor recreation plan, accepting and administering moneys paid by the Secretary of the Interior for approved projects, contracting with other state and federal agencies, acquiring and developing outdoor recreational areas and facilities, and coordinating activities with all state agencies having outdoor recreational responsibilities (Sections 62-401 through 62-404, R.C.M. 1947). Actually, the Committee was primarily involved in advising and consulting the Fish and Game Commission on matters affecting the state-wide outdoor recreation plan (planning, acquisition, and development of public outdoor recreation resources), allocation of federal funds among state and local agencies, geographic distribution of funding, and individual projects. Approximately 50 per cent of the Committee's time was spent discussing individual projects and the remaining 50 per cent was spent discussing the other primary duties. Records of these discussions were transmitted by the Chief of the Recreation and Parks Division of the Fish and Game Department to the Fish and Game Commission for their consideration. The Fish and Game Commission was ultimately responsible for Montana's projects completed with Federal Land and Water Conservation Fund Act moneys, and was not obligated to consider Committee suggestions or recommendations.

As the Fish and Game Commission is not obligated to consider Committee recommendations and the Committee is no longer functioning, it appears that the Committee's existence is no longer essential to Montana's outdoor recreation program. The Fish and Game Commission has always been charged with the primary responsibility for enhancing Montana's outdoor recreation resources, and following the Committee's quiescence, has discharged this responsibility singlehandedly.

The Committee's existence is not necessary for Montana to receive federal moneys under the Land and Water Conservation Act of 1965. The United States Department of the Interior, Bureau of Outdoor Recreation has indicated that Section 5 (d) of the Act requires that a state agency must be appointed and given the authority to act for the state in dealing with Land and Water Conservation Fund matters. Montana has specifically named the Fish and Game Commission to carry out this responsibility (Sections 62-401 through 62-404, R.C.M. 1947) and the Outdoor Recreation Advisory and Planning Committee is not a necessary requirement for federal funding.

OIL AND GAS CONSERVATION COMMISSION

Organization

General

The Oil and Gas Conservation Commission was created in 1953 to administer the provisions of Title 60, Chapters 1 and 8, R.C.M. 1947. The purpose of this agency is to insure that Montana's oil and gas resources are conserved; that is, that oil and gas resources are not wasted as waste is defined in Section 60-126, R.C.M. 1947.

As provided in Section 60-125, R.C.M. 1947 the Commission composed of five members, who serve staggered five year terms, appointed by the Governor with the concurrence of the Senate. Of the five members, two must be representatives of industry with at least three years' experience in the production of oil or gas. The remaining three members of the Commission are selected from the public at large. All members of the Commission must be residents of the state of Montana for at least one year prior to their appointment to the Commission. Commission members are subject to removal by the Governor for cause at any time. Commission members receive \$20.00 per day while engaged in the performance of their duties, and actual and necessary travel expenses and per diem in the same amount as do other state employees. The Commission meets about eight times a year for about seven hours a meeting, though no regular meeting schedule is required by law.

Section 60-125, R.C.M. 1947, the applicable portion of which reads as follows, provides that:

The commission shall appoint an executive secretary and may employ such other persons as experts, geologists, petroleum engineers, attorneys, assistants, field supervisors, clerks and stenographers and may acquire such personal property as may be necessary to perform the duties that may be required of it, and fix the compensation of the executive secretary and employees.

In accordance with these provisions the Commission has employed 18 personnel as its administrative unit, which will hereinafter be referred to as the "Oil and Gas Conservation Department" or the "Department."

The Oil and Gas Conservation Commission does not employ the use of any advisory councils.

Legal counsel for the agency is provided through the retainer system. Section 60-125, R.C.M. 1947 authorized the Commission to employ attorneys, and in accordance with this provision the Commission retains the part-time services of a private attorney whose office is located in Helena.

The main offices of the agency are located at 325 Fuller Avenue, Helena, Montana. The agency maintains field offices in Billings and Shelby.

Commission Activities

The general powers and duties of the Commission are outlined in Section 60-127, R.C.M. 1947, the applicable portion of which reads as follows:

A. The commission has jurisdiction to exercise effectively the authority granted it by this act.

B. The commission has authority, and it is its duty, to make such investigations as it deems proper to determine whether waste exists or is imminent or whether other facts exist which justify any action by the commission under the authority granted by this act with respect thereto.

C. The commission has authority, and it is its duty;

(1) To require: (a) identification of ownership of oil or gas wells, producing properties and tanks, (b) the making and filing of acceptable well logs, reports on well locations, and the filing of directional surveys, if made, provided, however, that logs of exploratory or wildcat wells need not be filed for a period of six (6) months following completion of such wells, (c) the drilling, casing, producing and plugging of wells in such manner as to prevent the escape of oil or gas out of one stratum into another, the intrusion of water into oil or gas stratum, blowouts, cavings, seepages, and fires; and the pollution of fresh water supplies by oil, gas, salt, or brackish water, (d) the furnishing of a reasonable bond with good and sufficient surety, conditioned for performance of the duty to properly plug each dry or abandoned well, (e) proper gauging or other measuring of oil and gas produced and saved to determine the quantity and quality thereof, (f) that every person who produces, transports or stores oil or gas in this state shall be available for examination by the commission or its agents at all reasonable times, and that every such person file with the commission such reports as it may prescribe with respect to quantities, transportation, and storages of such oil or gas.

(2) For the purpose of preventing waste, (a) to regulate the drilling, producing and plugging of wells, the shooting and chemical treatment of wells, the spacing of wells, operations voluntarily entered into to increase ultimate recovery such as cycling of gas, the maintenance of pressure, and the introduction of gas, water, or other substances into producing formations and (b) to fix, upon application made by any interested person after hearing, efficient gas-oil and water-oil ratios for any particular well or wells.

(3) To regulate disposal of salt water and oil field wastes.

(4) To classify wells as oil or gas wells for purposes material to the interpretation or enforcement of this act.

(5) To promulgate and to enforce rules, regulations and orders to effectuate the purposes and the intent of this act.

(6) To report as provided in section 82-4002.

D. The Commission shall have power and it shall be its duty to determine and prescribe what producing wells shall be defined as "stripper wells" and what wells shall be defined as "wildcat wells", and to make such orders as in its judgement shall be required to protect such wells, and to provide that stripper wells may be produced to capacity if it is deemed necessary in the interest of conservation so to do.

More specifically, the Oil and Gas Conservation Commission has three types of powers and duties: administrative, quasi-judicial and quasi-legislative. A detailed description of the Commission's actual activities with respect to each of these categories is what follows.

Administrative. The administrative power and duties of the Commission may be outlined as follows:

1. As mentioned above the Commission supervises the status of Department personnel and sets salary schedules for employees (Section 60-125, R.C.M. 1947);

2. The Commission approves and certifies all accounts and expenditures of the agency (Section 60-145, R.C.M. 1947);

3. The Commission approves biennial budget requests as proposed by the Executive Secretary.

The Commission spends about ten per cent of its meeting time performing administrative duties, as estimated by the Executive Secretary.

Quasi-Judicial. The quasi-judicial powers and duties of the Commission may be outlined as follows:

1. To prevent or assist in preventing the waste of oil or gas, the Commission, upon its own motion or upon application of any interested person, after hearing, may by order establish well spacing units (A well spacing unit is an organized area within which the wells are spaced at regular intervals to prevent waste and over-production.) for a pool, as to oil wells or as to gas wells or to both, in accordance with standards prescribed in Section 60-129, R.C.M. 1947.

During fiscal year 1970 the Commission, upon request, conducted nine hearings and issued nine orders in matters concerning the establishment of well spacing units within a pool. (A pool is actually the term referring to the oil deposit underneath the surface of the earth.)

2. As provided in Section 60-130, R.C.M. 1947, which reads as follows:

When two (2) or more separately owned tracts are embraced within a spacing unit, or when there are separately owned interests in all or a part of the spacing unit, then the person owning such interests may pool their interests for the development and operation of the spacing unit. In the absence of voluntary pooling, within the spacing unit, the commission, upon the application of any interested person, may enter an order pooling all interests in the spacing unit for the development and operations thereof. Each such pooling order shall be made after hearing, and shall be upon terms and conditions that are just and reasonable, and that afford to the owner of each tract or interest in the spacing unit the opportunity to recover or receive, without unnecessary expense, his just and equitable share of the oil or gas produced and saved from such spacing unit.

Each pooling order granted by the Commission must, in addition, be in accordance with the standards set forth in Section 60-130, R.C.M. 1947.

During fiscal year 1970, the Commission upon request, conducted nine hearings and issued nine orders establishing pooling with spacing units. (Pooling and unitizing are synonymous and mean the system by which each landowner shares according to the percentage of land he owns within the area of the pool.)

3. As provided in Section 60-131.1, R.C.M. 1947, the Commission, upon the application of persons owning leasehold interests underlying 60 per cent of the surface within the delineated area, must hold a hearing (notice of which must be given in accordance with Section 60-131.1, R.C.M. 1947) to consider the need for the operation of the area as a unit, for pressure maintenance or secondary recovery purposes, of one or more pools or parts of pools in a field. If upon hearing the Commission finds, as provided in Section 60-131.2, R.C.M. 1947, that: 1) unit operations (A unit operation is the same as a unitized or pooling operation previously described) are reasonably necessary to increase the ultimate recovery of oil or gas; 2) the value of the estimated additional recovery of oil or gas less royalties exceeds the estimated additional cost incident to conducting such operation; and 3) the full areal extent of the pool(s) or parts of the pool(s) has been reasonably defined and determined by drilling operations, then the Commission must make an order and prescribe a plan for the unit operation of the pool or pools or parts thereof. The plans for unit operations must be in accordance with the standards outlined in Section 60-131.3, R.C.M. 1947. In addition, it should be noted that Section 60-131, R.C.M. 1947, reads as follows:

No order of the commission providing for unit operations shall become effective unless and until the plan for unit operations prescribed by the commission has been approved in writing by those persons who, under the commission's order, will be required to pay at least eighty per cent (80%) of the costs of the unit operations, and also by the persons owning at least eighty per cent (80%) of the production or proceeds thereof that will be credited to interests which are free of cost, such as royalties, and production payments, and the commission has made such a finding, either in the order providing for unit operations or in a supplemental order, that the plan for unit operations has been so approved; provided however, that if one owner who is obligated to pay costs of the unit operation owns eighty per cent (80%) or more, but less than one hundred per cent (100%), the approval of that owner and at least one other such owner shall be required and if one person entitled to production or proceeds thereof that will be credited to interests which are free of costs, owns eighty per cent (80%) or more, but less than one hundred per cent (100%) the approval of that person and at least one other such person shall be required. If the plan for unit operations has not been approved at the time the order providing for unit operations is made, the commission shall, upon application and notice, hold such supplemental hearings as may be required to determine if and when the plan for unit operations has been so approved. If the requisite number of owners and persons and the requisite percentage of interests in the unit area do not approve the plan for unit operations within a period of six (6) months from the date on which the order providing for unit operations is made, such order shall be revoked by the commission unless for good cause shown the commission extends said time.

Finally, orders for unit operation issued by the Commission are subject to the qualifications, terms and standards set forth in Section 60-131.5, R.C.M. 1947.

During fiscal year 1970 the Commission, upon request, conducted nine hearings and issued nine orders for unit operation.

4. Title 60, Chapter 8, R.C.M. 1947 generally provides that natural gas public utilities may exercise the right of eminent domain to obtain property for use for underground storage of natural gas. In conjunction with this, Section 60-804, R.C.M. 1947 provides that, as a condition precedent to the filing of complaints in the District Courts, the natural gas public utility must apply for and obtain from the Commission a certificate setting forth the Commission's findings: 1) that the underground sand, stratum or formation sought to be acquired is suitable for an underground reservoir for the storage of natural gas and that its use for such purposes is in the public interest; 2) the amount of native gas, if any, remaining and the portion recoverable; and 3) that the applicant has in good faith sought the rights of eminent domain. In addition, Section 60-804, R.C.M. 1947 provides that the Commission may not issue the certificate until after a public hearing is had on the application.

During fiscal year 1970 the Commission received no applications for certificates from natural gas public utilities wishing to exercise the right of eminent domain.

5. The Commission may issue six types of quasi-judicial orders without a hearing: (1) administrative orders, which are issued without hearing to permit the disposal of salt or brackish water or the injection of salt or brackish water for recovery purposes; (2) emergency orders as authorized by Section 60-132, R.C.M. 1947 which provides that these may be issued whenever immediate action is required, and these are effective upon promulgation for a period of not more than 15 days; (3) orders for the denial or approval of an application for a rehearing, as is provided in Section 60-134, R.C.M. 1947; (4) special orders, which are issued where operators leave Montana without notice, to liquidate the bonds held by the Commission as a pre-requisite to the issuance of the drilling permit in order to defray the cost for proper plugging and abandonment of wells; (5) drilling permits issued prior to the commencement of the drilling of a well for oil or gas; and (6) by order, the Commission, in order to defray the expenses of the operation of the agency, fixes rates of assessment on every barrel of crude petroleum and on every, cubic foot of natural gas originally produced, saved and marketed or stored within Montana, or exported from Montana, which assessments must be within the maximums prescribed by Section 60-145, R.C.M. 1947.

During fiscal year 1970 the Commission issued, upon request, three administrative orders, one denial of an application for re-hearing, and 766 drilling permits.

No emergency orders, special orders, or change of assessment rate orders were made by the Commission during fiscal year 1970.

* Though the law provides that the Commission issue drilling permits, for purposes of expediency the Commission has by regulation delegated its authority to issue or deny issuance of drilling permits to the Petroleum Engineer or his authorized agent within the Department.

It should be further noted that the Petroleum Engineer has been given additional quasi-judicial powers by Commission regulations in that he may grant, in the name of the Commission, exceptions to Commission regulations concerning surface equipment, oil and gas separators, pulling of well casings and well plugging. Further, the Petroleum Engineer is authorized, by Commission regulations, to approve, in the name of the Commission, applications for the dual completion or recompletion (Dual completion or recompletion means double recovery; that is, first from the Madison strata and then further down at the Big Horn,) of wells and well plugging techniques.

6. The Commission, under the authority of its regulations, may, if it deems it necessary to protect life, health, or property, require by order, without hearing, that lease tanks or oil storage tanks be surrounded by earthen dikes which must have a capacity of the tank or tanks it surrounds; and, further that the reservoir within must be kept free from vegetation, water or oil.

No orders requiring earthen dikes were issued by the Commission during fiscal year 1970

7. The Commission may, by order, and upon notice and hearing, grant special exceptions to Commission rules and regulations in the matter of the spacing of wells, drilling procedures, controlled directional drilling, production from different pools through the same casing, gas repressuring of oil and gas properties, water injection and metering of gas.

During fiscal year 1970 the Commission, upon request, issued six orders granting, with hearing, special exceptions to Commission rules and regulations.

8. The Commission may, by order, without hearing, grant special exceptions to Commission rules and regulations in the matter of the use of vacuum pumps and the making available of samples of well cores, chips and cuttings.

During fiscal year 1970 the Commission, upon request, issued one order without hearing granting a special exception to Commission rules and regulations.

All quasi-judicial determinations of the Commission are subject to review by the District and Supreme Courts in the manner prescribed in Section 60-135, R.C.M. 1947. In addition, it should be noted that Section 60-134, R.C.M. 1947 provides that any person adversely affected by either an order or a rule or regulation of the Commission may within 20 days after its effective date apply to the Commission for a rehearing. The application for rehearing must be acted upon within 10 days after its filing.

Procedures for notice and hearing by the Commission are outlined in detail in the rules and regulations of the Commission, and may be described as follows.

The Commission may on its own motion institute proceedings to prevent violation of the laws which it administers, or of any order, rule, or regulation of the Commission, by entry of its order. The Commission may also on its own motion initiate proceedings upon any question relating to the administration of its oil and gas laws, by entry of its order instituting these proceedings. All other proceedings are commenced by written petitions which state in general terms the matter upon which action of the Commission is desired, the interest of the person making the request, the relief sought, and the reasons for the request. Except in those special instances previously noted, no rule, regulation or order may be made by the Commission without a public hearing upon at least 10 days notice. Notice of hearing is given by the Commission by personal service or certified or registered mail of by

publication in newspapers of general circulation, depending on the nature of the hearing. After notice of hearing is given, the hearing may be continued upon request for a period not to exceed 180 days.

Hearings before the Commission* are conducted without rigid formality. The hearings are opened with the reading, by the Executive Secretary, of the notice or notices. Any persons testifying before the Commission are required to do so under oath or affirmation.

When ordered by the Commission, all hearings are recorded by the Commission and transcribed by a reporter appointed by the Commission.

Full opportunity is afforded any interested person to be heard, present witnesses or other evidence, whether or not represented by legal counsel or technical assistance, and to cross-examine witnesses. In general, the rules of evidence applicable before a trial court without a jury pertain.

During fiscal year 1970 the Commission received 35 requests for hearing, two of which were withdrawn prior to hearing. The Commission held a total of 33 hearings in fiscal year 1970. (This figure includes 9 hearings on well spacing units, 9 on pooling, 9 on unit operation and 6 on special exceptions to Commission rules and regulations.)

The Commission may, through the Executive Secretary, issue subpoenas requiring attendance of witnesses and the production of books, papers and other instruments to the same extent and in the same manner and in accordance with the procedure provided in the Code of Civil Procedure which authorizes issuance of subpoenas by Clerks of the District Courts. Deposition may be taken by parties to a proceeding and used before the Commission in the same manner and under the same conditions prescribed in the Code of Court Procedure relating to the taking and using of deposition in Courts of the State.

The Commission enters its orders within 30 days after the hearing.

The Commission spends about 88 per cent of its meeting time exercising its quasi-judicial power, as estimated by the Executive Secretary.

Quasi-Legislative. The quasi-legislative powers of the Commission are provided for in Section 60-127, R.C.M. 1947, which generally provides that the Commission may promulgate and enforce rules and regulations to effectuate the purposes and intent of the laws which it administers. In accordance with this Section, the Commission has adopted and promulgated five types of rules and regulations. A brief description of each type follows:

1. Administrative Rules and Regulations

The Commission has adopted 10 pages of administrative rules and regulations

* It should be noted that the Commission itself conducts all hearings. No hearings officer system is employed by this agency.

which include definition of terms, powers and duties of key departmental personnel and terms of access to records of the agency.

2. Substantive Rules and Regulations

The Commission has adopted 13 pages of substantive rules and regulations defining Commission policy with respect to the drilling, development, production and abandonment of oil and gas wells in Montana.

3. Field Rules and Regulations

In proven oil and gas fields the spacing of wells, as well as the establishment of spacing units, is governed by special field rules for the particular field, which are adopted by the Commission after notice and hearing.

4. Procedural Rules and Regulations

The Commission has adopted five pages of procedural rules and regulations which govern the practice and procedure of the Commission itself.

5. Forms

The Commission has adopted 31 pages of forms for the use of operators in reporting their oil and gas activities to the Commission.

The rules and regulations of the Commission are revised and reprinted about once every six to eight years according to the Executive Secretary. The Commission spends about two per cent of its time exercising its quasi-legislative powers; as estimated by the Executive Secretary.

Funding and Personnel

The Oil and Gas Conservation Commission and Department is a self-supporting agency from revenue derived from drilling permit fees and from taxes on oil and gas production (Section 60-145, R.C.M. 1947).

The moneys of the Oil and Gas Conservation Commission and Department are administered by means of the Oil and Gas Earmarked Revenue Account (211900) which was established in 1953 in accordance with the provisions of Section 60-145, R.C.M. 1947. The sources of revenue for this account, as prescribed in Section 60-145, R.C.M. 1947, may be outlined as follows:

1. Wells producing an average of $\frac{1}{2}$ ¢ per barrel payable
less than 25 barrels of oil per day (crude oil production tax).....quarterly to the state
Treasurer
2. Wells producing over 25 barrels $\frac{1}{2}$ ¢ per barrel payable
of oil per day (crude Oil pro- quarterly to the State
duction tax).....Treasurer

- 1 mill per 10,000 cubic
feet payable quarterly
to the State Treasurer
3. Natural gas production tax.....to the State Treasurer
 4. Drilling permits
 - 3,500' depth or less.....\$25.00 license per well
 - 3,501' to 7,000.....\$75.00 license per well
 - 7,001' or over.....\$150.00 license per well
 5. Copies of documents.....\$.25 per copy
 6. Interest on investments *

Moneys in this account are used to pay all the expenses of the agency, subject to the qualifications of Section 60-145, R.C.M. 1947 that:
1) the expenditures during any fiscal year may not exceed the income during that same period; and 2) expenditures must remain within the biennial legislative appropriations. The 1969 Legislature made line-item appropriations from this account.

During the past biennium the following revenues were collected for the Oil and Gas Earmarked Revenue Account.

Natural Gas Productions Tax.....	\$ 6,291.41
Crude Oil Productions Tax.....	386,166.92
Well Drilling Permit Fees.....	69,000.00
Fees Collected for Documents.....	617.93
Interest Income on Investments.....	8,382.18
Miscellaneous Income.....	<u>48.95</u>

TOTAL REVENUE \$470,507.39

* As previously reported in the staff report on the Investment of State Funds the Executive Secretary is authorized by the Commission to determine when a surplus of revenue over the amount immediately needed for the administration of the agency exists and requests the Land Board to invest the surplus. In 1968, the agency invested \$125,000 and an additional \$25,000 in 1969. The \$150,000 total was reinvested three times in 1969. It has been the policy of the Commission to invest surplus moneys (over and above funds necessary to meet expenditures for the next succeeding three to six months) in short term treasury bills.

Expenditures from the Oil and Gas Earmarked Revenue Account for the agency during the past biennium were \$399,720. Revenues during the past biennium exceeded expenditures by 17 per cent or \$70,787. The legislative appropriation from the account for the agency for the current biennium is \$485,733.

The agency currently employs 17 full-time personnel, as follows:

<u>Position</u>	<u>Full-Time Equivalent</u>
<u>Helena Office</u>	
1 Executive Secretary	1
1 Accountant	1
3 Statistical Clerks	3
1 Secretary	1
<u>Billings Office</u>	
1 Field Supervisor	1
2 Field Inspectors	2
1 Draftsman	1
1 Petroleum Engineer	1
1 Geologist	1
2 Clerks	2
2 College Students	1
<u>Shelby Office</u>	
1 Field Supervisor	1
1 Clerk	1
TOTAL	17 F.T.E.

Program Description--Oil and Gas Conservation

General

In accordance with the provision of Title 60, Chapters 1 and 8 R.C.M. 1947, the Commission, through its Department, administers a program of Oil and Gas Conservation, the purpose of which is to prevent waste of oil and gas, to administer the laws and Commission rules and regulations with respect to the proper drilling, producing and plugging of oil and gas wells, to see that every operator files with the agency such reports as the Commission may require, and to maintain accurate records of all drilling of wells, transportation and refining of oil in Montana.

Description

Generally, the Department, in the name of the Commission, conducts well inspections (there are three fieldmen in Billings and one in Shelby making inspections regularly and it is estimated that they average about 500 or so such in well inspections per year or about 2,000 for the foursome) and investigations and engineering studies and compiles statistics upon which the administrative, quasi-judicial and quasi-legislative decisions of the Oil and Gas Conservation Commission are based. In addition, the agency publishes an Annual Review and Valuation Report (the Valuation Report is an annual publication showing the production for that year and the cumulative production to-date for the various fields in operation in Montana) yearly and a Statistical Bulletin monthly. These publications are sent to all operator and persons interested in the oil and gas industry.

In conformity with the provisions of Title 60, Chapters 1 and 8, R.C.M. 1947 and Commission rules and regulations and directives, the Department, by office, performs the following specific functions for the Oil and Gas Conservation program.

A. Helena Office

The administration office located in Helena controls all accounting for the agency, lease agreements for office space, and orders and stocks all supplies. This office also handles the bonding program for all operators in the state and receives all applications for public hearings by the Commission. Application information is compiled to be docketed for advertising and mailing to all operators and interested parties. Subsequent to the Commission's hearings, orders are issued relevant to the Commission's approval or denial of the application. Transcripts of all hearings are typed and filed.

The yearly Valuation Report and the monthly Statistical Bulletin are compiled by the Helena office, and the Annual Review is compiled by both the Helena and Billings offices.

The Helena office compiles all statistical data relating to oil and gas production, transportation and refining of oil. The Helena office also maintains a complete file of all oil and gas wells drilled in Montana. These files contain the permit to drill, well logs and all information vital to the completion of the well.

B. Billings Office

The Petroleum Engineer located in the Billings office attends all Commission hearings as an advisor to the Commission. He prepares monthly proration schedules, quarterly oil and gas ratio schedules and tabulates results. He investigates reported oil and salt water spills and coordinates solutions of these problems with the operator and landowner or complainant. He assists in preparing the Annual Review, evaluating state lands on oil production and exchange leases, and reviews and checks royalty statements. Also, he reviews and checks all applications for hearings regarding unitization and water-flooding an area, and assists the inspectors in their field work.

The Geologist located in the Billings office collects and preserves sample cores from selected wells drilled, supervises a microfilming project of Commission records including monthly updating of the well records and assists the oil and gas industry and the Commission where geological problems are involved. He also supervises the drafting of oil and gas field maps used by the Commission and the Oil and Gas industry.

C. Shelby Office

The Shelby office has a complete set of oil and gas well records that are up to date for the oil industry and a microfilm viewer with film of the well records. All wells to be drilled in the northern district are approved through this office. All plugged and abandoned wells in the northern district are inspected and approved by the Shelby inspector. The inspector is continually in the field checking the drilling and plugging of wells, and the cleanup after the wells are completed. He also checks the spudding of wells for proper location. (Spudding may be defined as the first 15 or 20 feet of actual drilling operation as the well is commenced.)

The Shelby and Billings offices submit to the newswires a weekly report of wells spudded and completed and wells that were plugged and abandoned.

Funding and Personnel

This program is funded by revenue derived from taxes on oil and gas, drilling permit fees, fees for copies of documents and interest on investments of surplus cash. During the past biennium the agency collected \$470,507 from these sources, and expended \$399,720 of that sum for the administration of this program. The appropriation for this program for the current biennium is \$485,733.

The Oil and Gas Conservation program employs the full-time of all Departmental personnel (F.T.E. = 17.0).

Relations With Other Agencies

Section 60-1414, R.C.M. 1947 authorizes the Oil and Gas Conservation Commission to cooperate with other governmental agencies.

Both verbally and by letter the Department provides from its records information for the Land Board concerning wells drilled on state lands, well production, names of operators, evaluation of state lands on which there are producing wells, valuation of exchange leases and review and crosscheck of royalty statements.

The Department maintains verbal communication with the Board of Equalization to check quarterly oil tax reports for errors in reporting productions and lists of operators. In addition the Department is requested by the Board of Equalization to check location of wells, production records, etc.

The Water Resources Board, the Board of Health and the Oil and Gas Conservation Commission work in conjunction on gas and oil pollution problems in oil fields, river, fresh water lakes and ponds.

Section 60-148, R.C.M. 1947 provides that the Oil and Gas Conservation Department shall make such facilities, equipment, records, and cores or cuttings, or samples of cores or cuttings, as are required by the Bureau of Mines and Geology in the furtherance of its oil and gas research study. The Department presently makes available at its office in Billings samples of cores and cuttings for the research activities of Bureau personnel.

Section 82-3001, R.C.M. 1947 provides that the Executive Secretary of the Oil and Gas Conservation Commission be a member of the interagency Council on Natural Resources and Development.

ADVISORY COMMITTEE FOR PRESERVATION OF HISTORIC SITES

Organization

The Advisory Committee for Preservation of Historic Sites was established to meet requirements of the Federal Preservation of Historic Properties Act (§ 101 to 205, 80 Stat. 915 [1966]), and the National Park Service Guide for Grants for Historic Preservation (1968). The Act provides a system of matching grants-in-aid to the states for conducting statewide historic surveys, for preparing comprehensive statewide preservation plans, and for individual preservation projects identified in the plans. The Act authorizes the appropriation of \$32 million dollars over a four year period for these purposes.

The Grants Guide (supra) requires that states participating in the program must appoint a professional consulting committee composed of persons professionally recognized in the fields of history, architecture, archeology, and other necessary professional disciplines to review the results of the statewide historic survey; approve properties for nomination to the National Register; and review the content of the state's preservation plan (National Park Service Guide for Grants for Historic Preservation, Section 3.6.3 [1968]).

The Montana Legislature has designated the State Fish and Game Commission as the agency responsible for studying and preserving historic sites and monuments (Sections 62-301 and 62-304, R.C.M. 1947) and has provided that the Commission may seek and accept the cooperation of the state and federal agencies in matters relating to acquiring, planning, establishing, developing, or maintaining among other things, monuments, historic or archaeological sites (Section 62-308, R.C.M. 1947). Pursuant to this statutory authority, in 1966, the Governor appointed the Fish and Game Department as the state agency responsible for projects financed by the Federal Preservation of Historic Properties Act provisions and appointed the Chief of the Recreation and Parks Division of the Department as the state's liaison officer.

In 1967, the Governor appointed seven persons to the Advisory Committee for Preservation of Historic Sites to meet the requirements of the Federal Preservation of Historic Properties Act and the National Park Service Guide for Grants for Historic Preservation. The Committee membership consisted of persons knowledgeable in the areas of archeology, history, architecture, and other related disciplines.

The Committee meets approximately twice annually in the Fish and Game Department's offices in the Sam Mitchell Building, has no permanent staff or formal organization, and does not seek the formal advice of legal counsel or advisory groups.

Funding and Personnel

Although the National Park Service Guide for Grants for Historic Preservation provides that Committee members may be compensated for services, travel, and per diem expenses as a project cost for purposes of federal assistance, Montana has not provided any form of compensation or funding. Therefore, the Committee does not employ staff members, receive expenses or per diem, or incur indebtedness.

Description of Programs

All Committee activities are included in a program entitled "Preservation of Historic Sites." As the program title indicates, Committee activities performed under this program are directed at assisting the Fish and Game Department and the National Park Service in the identification and preservation of Montana's historic sites. The Committee's duties actually involve three activities: approving properties for nomination to the National Register, reviewing the results of the state-wide historic properties inventory, and reviewing the content of the state's preservation plan. It appears that the Committee's time is divided equally among these three activities. At the present time, 25 Montana historical sites have been included in the National Register, 200 areas have been included in the state-wide inventory, and approximately 270 areas are included in the state's preservation plan.

BUREAU OF MINES AND GEOLOGY

Organization

The Bureau of Mines and Geology was created by the Laws of Montana 1919, Ch. 161, Sec. 1. The control and management of the Bureau of Mines and Geology is vested in the State Board of Education (Section 75-605, R.C.M. 1947). Section 75-606, R.C.M. 1947 provides as follows:

The state board of education shall have power and it shall be its duty to appoint a certified professional geologist or registered mining engineer as the director of the said bureau, who shall be designated as the state geologist, and to appoint such assistants and employees as may be necessary, and to fix the compensation of all persons connected with said bureau.

The Montana Bureau of Mines and Geology is located in Butte as part of the Montana College of Mineral Science and Technology. Its purpose is to assist in developing the state's mineral resources. The Bureau conducts field studies of Montana's geology and mineral deposits, including metals, oil and gas, coal, other nonmetallic minerals, and ground water. The Bureau also carries out research in mineral beneficiation, extractive metallurgy, and economic problems connected with the mineral industry in Montana. The specific statutory duties of the Bureau as enumerated in Section 75-607, R.C.M. 1947, are as follows:

1. To collect, to compile, and to publish statistics relative to Montana geology, mining, milling, and metallurgy.
2. To collect typical geological and mineral specimens and samples of products; to collect photographs, models, and drawings of appliances used in the mines, mills, and smelters of Montana.
3. To collect a library and bibliography of literature pertaining to or useful for the progress of geology, mining, milling, and smelting in Montana.
4. To study the geological formations of the state, with special reference to their economic mineral resources, both metallic and nonmetallic, and with special reference to ground water.
5. To examine the topography and physical features of the state, with reference to their practical bearing upon the occupation of the people.

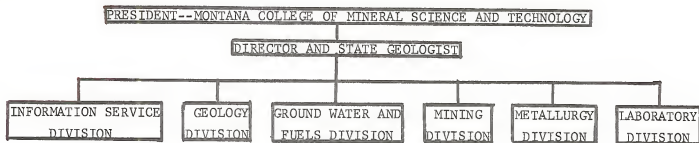
* Information concerning purpose of Bureau obtained from Biennial Report of Bureau of Mines and Geology, December, 1968.

6. To study the mining, milling, and smelting operations carried on in the state, with special reference to their improvement.
7. To prepare and to publish bulletins and reports, with necessary illustrations and maps, which shall embrace both a general and detailed description of the natural resources and geology, mines, mills, and reduction plants of the state.
8. To make qualitative examinations of rocks and mineral samples.
9. To consider such other scientific and economic problems as in the judgment of the State Board of Education are of value to the people of the state.
10. To communicate special information of Montana geology, mining, and metallurgy.
11. To cooperate with other departments of the University of Montana, with the state mine inspector, and with other departments of the state government, as may be mutually beneficial; and to cooperate with the United States geological survey and with the United States bureau of mines, in accordance with the regulations of those institutions.
12. It shall also be the duty of the bureau of mines and geology, upon request of the department of state lands and investments, to make examinations of state lands with regard to their geological formation and structure and as to all features relating to the character, extent, and probable value of mineral deposits therein, including oil and gas; provided, however, that these services by the bureau shall be limited to the time that its personnel has available for such work in addition to its duties as defined in the preceding sections. Written reports shall be prepared of the examinations made.

The Bureau consists of six divisions, as follows: Information Service Division; Geology Division; Ground Water and Fuels Division; Mining Division; and Laboratory Division. A detailed discussion of these divisions and their functions is contained in the Description of Programs section of this report.

The main office of the Bureau of Mines and Geology is located in Butte at the College of Mineral Science and Technology and a secondary office for petroleum research is located in Billings (1242 N. 28th St.). An organization chart of the Bureau, taken from the Biennial Report of the Bureau of Mines and Geology, is shown on the following page.

ORGANIZATIONAL CHART -- MONTANA BUREAU OF MINES AND GEOLOGY



Funding and Personnel

As shown in the table below, the Bureau of Mines and Geology expended a total of \$694,055.00 in the last biennium.

Expenditures, Bureau of Mines and Geology, 1967-69 Biennium

	<u>Fiscal Year 1968</u>	<u>Fiscal Year 1969</u>
Personal Services	\$ 173,942.00	\$ 202,278.00
Operation	145,568.00	136,873.00
Capital	<u>19,379.00</u>	<u>15,015.00</u>
TOTALS:	\$ 339,889.00	\$ 354,166.00
BIENNIAL TOTAL:		<u>\$ 694,055.00</u>

The following table represents the expenditures of the Bureau of Mines and Geology according to Division for the 1967-69 biennium.

Expenditures, by Division, Bureau of Mines and Geology, 1967-69 Biennium

<u>Division</u>	<u>Biennial Total</u>
Information Service	\$ 208,684.00
Geology	147,845.00
Ground Water & Fuels	263,660.00
Mining	6,000.00
Metallurgy	6,000.00
Laboratory	*
Administration	\$ 61,866.00
TOTAL:	<u>\$ 694,055.00</u>

*According to the Director of the Bureau, no funds can be officially allocated to the operation of the Laboratory.

The primary source of funding for the Bureau of Mines and Geology is the legislative appropriation to the College of Mineral Science and Technology. The Bureau is allocated funds through the Organized Research program of the College. The College of Mineral Science and Technology was appropriated a total of \$3,010,000 for personal services, operation, and capital for the current biennium. Of this figure, \$2,295,000 was from the General Fund, \$355,000 was from the Earmarked Revenue Fund, Student Fee Account, and \$360,000 was from the Earmarked Revenue Fund, University Millage Account. The College also received a line item appropriation from the General Fund of \$40,000 for coal research.

Of the \$3,010,000 appropriated to the college for operations, \$1,005,096 has been allocated to the Bureau for its expenditures. In addition, the Legislature specifically appropriated \$50,000 from the General Fund for the current biennium to match federal funds for a research and economic study of Montana coal to determine its anti-pollution value for use in industry. The Bureau for the current biennium also receives \$20,000 from State Technical Services Agency.* Thus, the total amount available to the Bureau for the 1969-71 biennium is \$1,075,096.

The only revenue generated by the Bureau is from the sale of publications. In the last biennium, \$5,303 was received from this source.

The Bureau presently employs a total of 28 full-time personnel as shown in the table below.

Director (State Geologist)
Chief, Ground Water and Fuels Division
Chief, Information Service Division
Chief, Geological Division
Research Petroleum Geologist (Billings office)
Chief Hydrologist (also head of Ground Water Branch)
Economic Geologist (for technical Services project)
Economic Geologist (for nonmetals)
Head Coal Geologist
Hydrogeologists (2)
Coal Geologist (Billings office)
Economic Geologist for Metals
Chief Chemist
Chemist Technician
Chief Draftsman
Draftsman
Analyst
Coal Chemist
Office Manager
Stenographers (2)
Clerk-Typists (3)
Secretaries (2)

*The National Office of the State Technical Services Agency is no longer operative. (15 U.S.C.A. Sections 1351-1358).

The 28 persons employed by the Bureau are distributed, according to division, in the following manner: Information Service Division, 9; Geology Division, Mining Division and Metallurgy Division, combined 4; Ground Water and Fuels Division, 10; and Laboratory Division, 5.

Description of Programs

Information Service Division

General. The duties of the Information Service Division are enumerated in Section 75-607, R.C.M. 1947, which provides in part, that the Bureau is responsible for preparing, publishing and compiling information relative to Montana geology, mining, milling, and metallurgy. This section also requires the Bureau to publish maps of the natural resources and geology, mines, mills, and reduction plants of the state. The purpose of the Information Service Division is to answer all letters of inquiry, publish all reports of other Divisions of the Bureau, and to disseminate information concerning mineral resources where it is most desired.

Description. The Information Service Division answers all inquiries directed to the Bureau regarding the geology and mineral industry of Montana. In a two-year period (July 1, 1966 to June 30, 1968) the Division wrote 9,727 letters. Over 8,000 of these letters were in response to inquiries about all phases of the mining industry and 1,617 involved other Bureau business.

The Bureau is required by Section 75-607, R.C.M. 1947 to make qualitative examination of rocks and minerals submitted by Montana citizens or localities. A laboratory is used by the Division in making the qualitative examinations (determining the kind of materials present and the value of the specimen). Following determination, a report is made on the findings and sent to the person submitting the specimen. In fiscal year 1968, 593 reports were published by the Information Service Division representing 1,203 individual specimens.

According to the Director, the Information Service Division is responsible for the drafting of maps and editing or reports for the other Divisions of the Bureau. As agent for the U.S. Geological Survey in the sale of geological and topographical maps, the Information Service Division of the Bureau makes maps available to residents and visitors to Montana. During 1968, the Bureau made 8,111 sales: 6,036 topographic maps, 1,079 special maps, and 996 U.S. series maps. Also during this period, 28 manuscripts were reviewed, edited, and published; 18 as bulletins, one as memoir, and nine as special publications. More than 40,000 copies of Bureau publications were distributed in fiscal years 1967 and 1968, including new publications to libraries.

Approximately 25 prospectors a month receive personal advice and information on minerals and field methods of prospecting for them.

Funding and Personnel. The estimated expenditures for the Information Service Division during the last biennium, according to the Director, amounted to a total of \$208,684.00. The source of funding for this program is the Organized Research allocation made by the college to the Bureau of Mines and Geology.

Geology Division

General. Section 75-607, R.C.M. 1947 requires that the Bureau of Mines and Geology conduct 1) basic geological studies; 2) economic studies of mineral commodities; 3) economic studies of mining districts; 4) mineral resource inventories of counties; and 5) geochemical exploration surveys. These responsibilities are being fulfilled by the Bureau's Geology Division. According to the Director, the purpose of the Division is to determine the geological formations of Montana and to take samples of materials found in potential oil or mineral area.

Description. One of the principal activities of the Geology Division during the last biennium was the performance of basic geological studies in oil research. Such a study, according to the Director, may take as long as two years to complete. The procedure for locating oil rich areas is as follows: 1) a geologist gathers all information on the areas and work that has been done there by other geologists; 2) the geologist visits the potential site of the operation and takes samples of the area; 3) the samples are taken back to the Bureau and tested to determine geological formations of the area; 4) a report is written by the geologist and published by the Information Service Division. The report will state the geological formations of the area, whether the structure is folded or faulted, which part of the area has the most potential, and how deep the drill must be sunk. According to the Director, this stratigraphic and structural study is necessary for understanding problems in the search for oil, though not of an immediate value.

The Geology Division, according to the Director, each year studies one or more mineral commodities of active interest and studies one county and at least one mining district not previously studied. The purpose of these studies is to stimulate and assist exploration, to record the history of mining activity and to prepare an inventory of mineral resources. The reports, when published by the Information Service Division, are distributed to libraries, the public and interested companies throughout the United States.

During the last biennium, the Bureau conducted 21 economic studies of mineral commodities. The Geology Division has issued reports on the economic geology of asbestos, borites, caly, orundum, expandable shale, graphite, gypsum, iron ore, lime and limestone, pegmatite minerals, phosphate, silica, sillimanite, sodium sulfate, talc, tungsten, uranium and thorium, vermiculite and wollastonite.

There are approximately 200 mining districts in the state. These districts were established by prospectors when Montana was a territory, according to recorded claims with regulations enforced by the miners. According to the Director, 25 districts have been covered in individual reports, and about 50 in county reports. The reports contain information extracted from field activity made by the Geology Division in the mineral areas. The report indicates the value of the minerals, source, and future potential of the area researched. Maps are also prepared showing the geological structure of the area.

Mineral resource inventories have been made in cooperation with the U.S. Bureau of Mines. The U.S. Bureau of Mines has assembled information on mines and mineral resources of Montana counties, but has no funds to publish the information. The Montana Bureau of Mines and Geology has agreed with the U.S. Bureau to use this information, supplement it, and incorporate the information into reports to be published by the Bureau.

The Geology Division is presently using geochemical sampling methods (extracting samples for chemical analysis), soil, stream sediment, water, and botanical sampling (sampling procedure by chemical analysis) to determine the existence of deposits in geologically favorable areas. This method is for investigating soil and timber covered areas where rocks are not exposed to visual inspections.

Funding and Personnel. The estimated expenditures for the Geology Division during the last biennium, according to the Director, amounted to a total of \$ 147,845.00. The source of funding for this program is the Organized Research allocation made by the college to the Bureau of Mines and Geology.

Ground Water and Fuels Division

General. This Ground Water branch of the Division locates and investigates underground water in the state and explores the movement, use, and quality of ground water. The Mineral Fuels Branch of the Division determines where coal, petroleum, and nuclear fuels may be found in Montana.

Description. Ground water studies in Montana have been conducted by the Bureau since the early 1930's. The purpose of these studies is to develop ground water sources. The ground water branch of the Division investigates all aspects of ground water, including occurrence, quality, quantity, movement, use, and interaction of ground water in the potential area. Following the investigation, the Branch conducts direct field examinations and research in the ground water resource area. (This includes areas where problems of overuse, pollution, or misuse of ground water arise).

The Ground Water and Fuels Division conducted seven ground water projects throughout Montana in fiscal year 1968. Eight more projects are in progress as part of a Bureau--U.S. Geological Survey Cooperative Program.

This Division also answers requests for information on the availability of ground water for all uses. About 500 such requests were answered by the Bureau and its cooperator, the U. S. Geological Survey, during the last biennium.

The Mineral Fuels branch is concerned with the energy and chemical product potential of Montana's mineral--fuel deposits. The procedure for determining the potential of coal in an area is as follows: (1) the area is mapped in strategic areas to drill holes; (2) a sample of the core is taken from the hole and preserved; (3) the open hole is then tested for thickness and depth by using an electronic logger; (4) the sample is then taken to Butte and a chemical analysis is made. In this regard, the Bureau opened a petroleum research geologist office in Billings in 1967.

According to the Director of the Bureau, four projects were conducted by this branch during the last biennium. These projects included local research mapping, investigation of noncombustible mineral matters in coal from eastern Montana, general studies of low-sulfur, low-ash coal, and investigation of coal resources in southern Custer and northern Powder River Counties.

This Division is also responsible for coal research. (Annual production of coal in Montana, according to the head of the Ground Water and Fuels Division, will increase from about 300,000 tons in 1967 to about 4,000,000 tons by 1972). The Bureau maintains a Coal Information Center in Butte for the purpose of maintaining files of coal projects and distributing advise to the public and industry concerning coal. The Bureau also works in conjunction with the Coal Resources Research Council which was created by the Board of Education in 1955 to promote and secure funds for coal research in Montana. The Council consists of members of three educational institutions (Eastern Montana College, the University of Montana and the Montana College of Mineral Science and Technology), the State Coal Mine Inspector, the Commissioner of

State Lands and Investments, a representative of the Planning and Economic Development Commission, and representatives from industry.

Funding and Personnel. The estimated expenditures for the Ground Water and Fuels Division during the last biennium, according to the Director, amounted to a total of \$263,660.00. The source of funding for this program is the Organized Research allocation made by the college to the Bureau of Mines and Geology.

Mining Division

General. Section 75-607 (6), R.C.M. 1947 provides that the Bureau shall, "... study the mining, milling, and smelting operations carried on in the state, with special reference to their improvement". The primary purpose of the Mining Division is to help the prospector and small mine operator develop their property safely and efficiently. This is accomplished through a field program and by the publication and distribution of handbooks and manuals on mining methods and problems. Another responsibility of the Mining Division is the regulation of strip coal mining as provided in Title 50, Chapter 10, R.C.M. 1947. The purposes of this regulation, generally, is to provide for the reclamation of lands on which strip mining of coal has been conducted.

Description. According to the Director of the Bureau, the Mining Division is operating on a part-time basis only and the head of the Division is also head of the Department of Science and Engineering at the College in Butte. The Division conducts infrequent projects at the discretion of the Division head.

One such project was in connection with the State Technical Services Act, (15 USCA Sections 1351-1368) which was passed by the U.S. Congress in 1965. The purpose of the Act was to provide a program that would enable the states to establish a technical services program to disseminate scientific and engineering information to industry. The Bureau and the College were "participating institutions"; and the Bureau secured approval for two of its proposals. The first such project to be completed was the publication of a Bureau report in 1967 concerning mining methods. Also begun in fiscal year 1967 was a State Technical Services program known as the "Mining and Geology Field Services Program". The activities of this program (field service to prospectors and small mine operators) are now being continued as a part of the Information Service Division's activities.

Section 50-1002, R.C.M. 1947 provides that the Bureau is authorized to enter into contracts with strip coal mine operators which will provide for the reclamation of lands on which the mining has been conducted. (Section 50-1007, R.C.M. 1947 states that it will be unlawful, after January 1, 1970 for any operator to engage in surface coal mining in an area where the overburden**exceeds 10 feet in depth, without first contracting with the

*As noted above the State Technical Service Agency is no longer operative on a national level.

**The term "overburden" is defined in Section 50-1006 (2) as "... all of the earth and other materials which lie above natural deposits of coal, and also means such earth and other materials disturbed from their natural state in the process of surface coal mining.

Bureau for the restoration of the affected lands.) Section 50-1004, R.C.M. 1947 makes it the duty of the Bureau to annually inspect each strip mining operation for coal in the state. If the operator has entered into a contract to reclaim the lands, the Bureau is to determine the value of the reclamation work performed and notify the Board of Equalization and the State Treasurer. In turn, one-half of the amount so reported is to be deducted from the coal mines license tax due from the operator.

As noted above Sections 50-1002 and 50-1007, R.C.M. 1947 require that all operators of strip coal mines in which the overburden exceeds 10 feet in depth, contract with the Bureau for the reclamation of lands on which the mining has been conducted. In addition, in 1969 the Legislature substantively amended Title 50, Chapter 10, R.C.M. 1947 to provide for permits to be issued to strip coal mine operators (who are not under contract with the Bureau) which would allow an to strip mine the land for a period of three years. The permit would be issued subject to several requirements relating to the reclamation of the land. Section 50-1008 (2) R.C.M. 1947 requires that all applications for a permit be accompanied by a bond or security and a fee, computed in accordance with the provisions set forth within this aforementioned section (Section 50-1008 (2) R.C.M. 1947). The Bureau is authorized (Section 50-1010 R.C.M. 1947) to enter the lands of any operator issued a permit for the purposes of inspection at any time. If, upon inspection the Bureau finds the operator violating any of the provisions of the permit or of the laws regulating strip coal mining in Montana, the Bureau may request the Attorney General to proceed as provided in Section 50-1013 R.C.M. 1947 to request forfeiture of the bond or security. Section 50-1011 (6) R.C.M. 1947 grants the Bureau the power to reclaim, any affected land with respect to which a bond has been forfeited. According to the Director of the Bureau, no permits have been issued since the new law became effective, therefore, no bonds have been forfeited or lands reclaimed in accordance with these provisions.

With the assistance of the Natural Resources Development Council, the Bureau recently formulated a model contract for strip coal mining. To date, the Bureau has entered into only one such contract; in this single instance, the model contract, as modified slightly, was used. The Bureau also complies with the requirement for inspecting strip coal mining operations. According to the Director, the Bureau made an inspection of four operating mining companies during the 1967-69 biennium.

Funding and Personnel. The estimated expenditures for the Mining Division during the last biennium, according to the Director, amounted to a total of \$6,000.00. The source of funding for this program is the Organized Research allocation made by the college to the Bureau of Mines and Geology.

Metallurgy Division

General. Section 75-607 (8), R.C.M. 1947, requires that the Bureau make qualitative examinations of rocks and mineral samples". According to the Director of the Bureau's Metallurgy Division, which, working in close cooperation with the Information Service Division, extracts and studies samples of ores and concentrates to determine their value.

Description. During the last biennium, the Division conducted two projects. The first involved the sampling and testing of deposits of clay and shale, as part of a project involving ceramic problems in Montana; this is a continuous project. The tests include x-ray diffraction analysis, quantitative chemical analysis for aluminum, silica, iron, and other compounds, and ceramic tests to determine the firing properties. The second project was concerned with the publication of translations and reprints in order to disseminate information on the origin of uranium in phosphate rock, its determination, and extraction.

Funding and Personnel. The estimated expenditures for the Mining Division during the last biennium, according to the Director, amounted to a total of \$6,000.00. The source of funding for this program is the Organized Research allocation made by the College to the Bureau of Mines and Geology.

Laboratory Division.

The Laboratory Division is not a full-scale Division; its sole purpose is to cooperate with the other divisions of the Bureau in analyzing specimens of minerals and ores for the other divisions as the need arises. According to the Director, no funds can be officially allocated to the operation of the Laboratory.

Relations With Other Agencies

The Bureau of Mines and Geology is related, through cooperative projects to the following federal agencies: the U.S. Geological Survey, the U.S. Bureau of Mines and the Office of Water Resources Research (Department of Interior); and the Department of Health, Education and Welfare. On the state level, the Bureau is cooperating with the following agencies: Highway Department in matters concerning hydrological problems; the Department of Fish and Game in locating ground water sources; Industrial Accident Board concerning the inspection of metal mines; Department of Lands and Investments in the area of mineral leasing; Oil and Gas Conservation Commission in the sale of publications; the University of Montana, Eastern Montana College, Montana College of Mineral Science and Technology, the State Coal Mine Inspector, the Commissioner of Lands and Investments and the Planning and Economic Development Commission through the Coal Resources Research Council.

The Bureau also does water analysis for state agencies when requested. The Bureau is a member of the Council on Natural Resources and Development and works with the Council in the formulation of contracts for strip-mining.

S U M M A R Y

A capsule description of the agencies discussed in the text of this report is set forth below.

STATE FISH AND GAME COMMISSION

The State Fish and Game Commission's predecessor, the Montana State Fish Commission, was established in 1907 to construct fish hatcheries and distribute fish throughout the state. The present State Fish and Game Commission's authority has been considerably broadened and its function is to provide for the protection, preservation, and propagation of fish and game animals and to provide recreational and park areas for Montana residents. These functions are performed through the administrative, information and education, fisheries, law enforcement, game management, recreation and parks, and environmental resources programs.

Five persons experienced in the subject of wildlife, fish and game, and that the requirements for the conservation and protection of fish, game, game birds, and animals are appointed for four year staggered terms as Fish and Game Commissioners by the Governor with the advise and consent of the Senate. Commissioners members are appointed from five geographic districts in the state and may be removed for inefficiency, neglect of duty, misconduct in office, or cause by the Governor. The Commission must meet annually and elect a Chairman and must hold quarterly meetings. (The Commission presently meets monthly or bimonthly.)

The Commission is informed of Department activities and program development, particularly those relating to proposed annual hunting, fishing, and furbearing animal regulations; permanent regulations; land and water purchase options, leases, and contracts; land or water developments and improvements; agreements with other states or federal agencies for fish and game management, development, or protection; pollution control; and information dissemination. The Commission and the Department Director have estimated that the Commission spends 70 per cent of its time reviewing Department programs and activities and approving administrative matters and 30 per cent performing quasi-legislative matters such as reviewing and revising annual and permanent regulations. The Commission spends a very limited amount of time on quasi-judicial matters.

MONTANA WATER RESOURCES BOARD

The Montana Water Resources Board was created by the 1967 Legislature to assume the functions of the Carey Land Act Board, the State Engineer, and the Water Conservation Board. The Board's primary duty is to coordinate the development and use of water resources in Montana and the Board is presently accumulating information on Montana's water resources and preparing an inventory and statewide comprehensive coordinated multiple use water plan; providing engineering assistance, and in certain instances actually constructing, operating, and maintaining water conservation projects; accumulating data on surface water rights and incorporating the information in a

county by county water resources survey; gathering facts on ground water and administering the ground water code; participating in cooperative water measurement studies; administering weather modification laws; **representing** Montana in negotiations between various states, the federal government, and foreign nations on agreements or compacts relating to interstate or international waters; participating in numerous studies in cooperation with other states and the federal government involving water and related land resources; assisting local water users associations in technical and organizational matters; and aiding interested private persons in establishing water conservancy districts.

Stewardship of the Montana Water Resources Board is vested in seven members, including the Governor and Director, who are ex-officio members. The five remaining members are qualified electors of the state appointed for six years ~~staggered~~ terms by the Governor with the consent of the Senate. The Board meets for two days once a month in the Board's principal offices in Helena. Staff research indicates that the Board spends the majority of its time reviewing information and policy recommendations submitted by Board personnel on past and present Board activities.

The Board is authorized to perform numerous quasi-judicial functions such as holding hearings to determine the rights of respective claimants to water in which the Board owns some of the rights; to assess public opinion of the State Water Plan and Inventory; to designate or modify controlled ground water areas; to ascertain rights to the use of ground water; to determine whether ground water is being used in compliance with the Ground Water Act; to assess public reaction to proposed weather modification activities; and to determine feasibility of proposed water conservancy districts.

The Board is also authorized to perform certain quasi-legislative functions such as promulgating rules and regulations for carrying out the water conservation policy of the state; advancing the state water plan; providing for administration of the weather modification act; and providing for inspection and entry, and other matters relating to ground water areas.

The Board has not utilized its quasi-legislative and quasi-judicial powers to the fullest extent; but as the demand for water increases in Montana, these powers will undoubtedly need to be utilized to a greater extent as a shortage of water promises to create activity in all water and related areas.

The Board has established a weather modification advisory committee composed of two persons knowledgeable in the area of weather modification to inform the Board on professional qualifications for weather modification license applicants and to furnish technical weather modification data. The Committee does not meet formally and its activities have been very limited.

MONTANA GRASS CONSERVATION COMMISSION

The Montana Grass Conservation Commission was created in 1939 and is presently promoting efficient range management and range preservation. The Commission administers the Grass Conservation Act and in so doing supervises

and regulates 33 State Grazing Districts and aids the Districts in establishing range programs.

The Commission is composed of five members selected by the Governor from various range and livestock associations. The Commission meets regularly once a year at the Capitol in Helena and elsewhere as business necessitates. Generally, the Commission approves the administration and day-to-day operations conducted by the Commission's Secretary and devotes little time to policy making. The Commission is empowered to perform quasi-judicial functions relating to the creation, dissolution, or modification of boundaries of State Grazing Districts. Normally, the hearings involving creation, dissolution, or modification of boundaries for State Grazing Districts are conducted by the Commission's Secretary and the Commission accepts the Secretary's recommendations at the next Commission meeting. The major activity of the Districts--the allocation of land among members--is performed by the District Board of Directors and not by the Commission.

MONTANA STATE BOARD OF FORESTRY AND OFFICE OF THE STATE FORESTER

The State Forester is primarily concerned with the development, protection, and conservation of forested lands on private and state lands in Montana. The State Forester fights forest fires, arranges timber sales, burns slash or brush, and creates recreation facilities on Montana's timber lands.

The State Forester is directed by the State Board of Forestry when he is performing timber conservation, protection, or development projects on private lands and is controlled as provided in the Montana Constitution by the State Board of Land Commissioners when he is performing these functions on state lands.

The State Board of Forestry is composed of the Governor as ex-officio Chairman and seven members recommended by various forestry and timber oriented organizations. The Board meets twice per year and the bulk of the Board members' time is spent approving recommendations, plans and administrative matters presented by the State Forester. The Board has both quasi-judicial and quasi-legislative powers but these are almost always performed by the State Forester and his staff.

STATE SOIL CONSERVATION COMMITTEE

The State Soil Conservation Committee was established by the 1939 Legislature to administer the newly enacted Soil and Water Conservation Districts Law. This legislation was enacted to provide for the conservation of soil and soil resources, control and prevention of soil erosion, prevention of floodwater and sediment damages and to further the conservation, development, utilization, and disposal of water, and thereby to preserve natural resources, control floods, prevent impairment of dams and protect reservoirs, preserve wildlife, protect the tax base, protect public lands and promote the health, safety and general welfare of the people of the state.

Staff research indicates that the Committee's major activities may be classified in the following categories: 1) administering soil and water conservation district laws; 2) providing education and assistance to soil and water conservation districts and district personnel; 3) administering Public Law 566--the Federal Watershed Protection and Flood Prevention Act--and accepting applications for various conservation and development projects under Public Law 87-703; and 4) securing the cooperation and assistance of state and federal agencies active in natural resource conservation and development.

Stewardship of the State Soil Conservation Committee is vested in seven members; and the Committee may additionally invite the United States Secretary of Agriculture to appoint a non-voting member. The Committee members are: the Director of the State Extension Service, the Commissioner of the State Department of Agriculture, the Director of the State Agricultural Experiment Station, and four conservation district supervisors appointed by the Governor from a list submitted by the Montana Association of Soil and Water Conservation Districts. The Governor's appointees serve four year terms of office.

Although the statutes creating the Soil Conservation Committee empower the Committee to perform many functions, in reality, numerous functions are accomplished by the Committee's Executive Secretary rather than by the Committee members. The Executive Secretary estimates that the Committee utilizes 35 per cent of its time reviewing Public Law 556 and 87-703 applications; 35 per cent securing the assistance of state and federal agencies active in natural resource conservation and development; 15 per cent administering soil and water conservation laws; and 15 per cent assisting soil and water conservation districts and district personnel.

COUNCIL ON NATURAL RESOURCES AND DEVELOPMENT

The Council on Natural Resources and Development was created in 1953 and is presently composed of: the Commissioner of State Lands and Investments; the Director of the Department of Fish and Game; the State Forester; the Secretary of the Grass Conservation Commission; the Director of the Montana Water Resources Board; the Executive Secretary of the Oil and Gas Conservation Commission; the State Highway Engineer; the Director of the State Bureau of Mines and Geology; the Commissioner of Agriculture; the Executive Officer of the State Board of Health; the Director of the Department of Planning and Economic Development; the Executive Secretary of the State Soil Conservation Committee; the Chairman of the Outdoor Recreation Advisory Committee; a member of the Water Well Contractors Examining Board; the Secretary of the Water Pollution Control Council; and a member of the Sanitarians Registration Council.

The statutes provide that the Council must meet at least once every 60 days in Helena and may hold additional meetings at the request of the Governor. The Council does meet once every 60 days and has held 20 additional meetings since its inception in 1953.

The Council's duty is to give joint consideration to administrative problems and legislative needs which the Council members have in common,

particularly in regard to natural resources, forestry, land management, state parks, fish and game, highway construction, and water pollution and floods. The Council is charged with making studies to promote effective coordination of the Council members work, preparing reports and recommendations on matters which the Governor has requested the Council to consider and preparing agency reports on programs relating to water problems.

Since its inception in 1953 the Council has functioned primarily as a coordinating body and has been concerned with preparing studies on water problems, rangeland resources, state parks, and other areas of concern to Council members or the Governor.

OIL AND GAS CONSERVATION COMMISSION

The Oil and Gas Conservation Commission was created in 1953 to insure that Montana's oil and gas resources are conserved and not wasted.

The Commission is composed of five members, who serve staggered five year terms and are appointed by the Governor with the concurrence of the Senate. Of the five members, two must be representatives of industry with at least three years experience in the production of oil or gas. The remaining three members are selected from the public. The Commission meets about eight times a year for about seven hours a meeting, though no regular meeting schedule is required by law.

The Commission members spend approximately 10 per cent of its time performing administrative duties such as supervising the status of department personnel, setting employee salary schedules, and certifying all Commission accounts and expenditures; 88 per cent of its time exercising quasi-judicial powers such as holding hearings and issuing orders establishing well spacing units for oil and gas pools, pooling with spacing units, unit operations, and other specific orders; and 2 per cent of its time performing quasi-legislative functions such as formulating administrative, substantive, field, and procedural rules and regulations.

ADVISORY COMMITTEE FOR PRESERVATION OF HISTORIC SITES

The Advisory Committee for Preservation of Historic Sites was established to meet requirements of the Federal Preservation of Historic Properties Act which provides a system of matching grants-in-aid to the states for conducting statewide historic surveys, preparing comprehensive statewide preservation plans, and completing individual preservation projects identified in the plans. The National Park Service Guide for Grants for Historic Preservation requires that states participating in the program must appoint a professional consulting committee composed of persons professionally recognized in the fields of history, architecture, archeology, and other necessary professional disciplines. The Committee is to review the results of the statewide historic survey, approve properties for nomination to the National Register, and review the content of the state's preservation plan.

In 1967, the Governor appointed seven persons to the Advisory Committee for Preservation of Historic Sites to meet the requirements of the Act and the Grants Guide. The Committee meets approximately twice annually in the Fish and Game Department's offices in the Sam Mitchell Building. It approves

properties for nomination to the National Register, reviews the results of the statewide historic properties inventory, and reviews the content of the state's preservation plan. At the present time, 25 Montana historical sites have been included in the National Register, 200 areas have been included in the statewide inventory, and approximately 270 areas are included in the state's preservation plan.

OUTDOOR RECREATION ADVISORY AND PLANNING COMMITTEE

The Outdoor Recreation Advisory and Planning Committee was established by the 1965 Legislature to advise and consult with the Fish and Game Commission on programs initiated by the enactment of the Federal Land and Water Conservation Fund Act of 1965. The Act was designed to preserve, develop and assure accessibility of outdoor recreation resources by: 1) providing funds for and authorizing federal assistance to the state in planning, acquisition, and development of needed land water areas and facilities and 2) providing federal funds for the federal acquisition and development of land and recreational areas.

The Committee has not functioned since September 1968 because the members were not compensated for their service and expressed feelings of frustration because a close relationship regarding Land and Water Conservation Fund Act projects between Committee members and the Fish and Game Commission was not developed. The Committee's existence is not necessary for Montana to receive federal moneys under the Land and Water Conservation Fund Act of 1965.

BUREAU OF MINES AND GEOLOGY

The Bureau of Mines and Geology, under the direction and management of the State Board of Education, Conducts studies of Montana's geology and mineral deposits, including metals, oil and gas, coal, other nonmetallic minerals, and ground water, and performs research relating to mineral beneficiation, extractive metallurgy, and economic problems of the mining industry. The Bureau is located in Butte in conjunction with the Montana College of Mineral Science and Technology.

In addition to performing surveys and studies relating to Montana's geology and mining industries, the Bureau is authorized to enter into contracts with mining operations providing for the reclamation of lands in which strip coal mining has been conducted. It is also charged with inspecting strip coal mining operations and certifying the value of the reclamation work performed to the State Board of Equalization, issuing permits permitting coal strip mining, issuing rules and regulations and performing other regulatory functions under the coal strip mining act.

APPRAISAL

Each of the agencies discussed in the preceding summary, except the Bureau of Mines and Geology, has a common denominator: they are all primarily intended to preserve or conserve a natural resource, whether it be soil, grass, oil and gas, timber, water, or fish and game. (The Bureau of Mines and Geology has natural resource regulatory function, but is primarily a research-educational unit). Many of these natural resources are interrelated to such an extent that consideration of a separate resource by a single agency or multi-member body is both impossible and impractical. Presently, the state government's effort to preserve and conserve natural resources is divided among 11 agencies or multi-member bodies, each of which serves in an autonomous fashion and primarily concentrates upon preserving or conserving its specific natural resource. There is in this state no broad based agency charged with the comprehensive responsibility for all natural resources. Consequently, there is no actual coordinated plan for the conservation and preservation of all of Montana's natural resources.

Also, each of the major agencies discussed in the report is directed by a multi-member body having numerous quasi-legislative and quasi-judicial functions. Staff research indicates that the multi-member bodies are currently spending the majority of their time reviewing administrative programs and administrative matters and spending small proportion of their time on quasi-judicial or quasi-legislative matters. Collectively, the quasi-legislative and quasi-judicial functions of the multi-member bodies discussed in this report would not seem to constitute too great a burden for a single board. If the converse proves to be the case in the future, the situation could and should be remedied.

The following section of the appraisal includes specific comments concerning the organization and activities of the agencies and multi-member bodies discussed in the report.

STATE FISH AND GAME COMMISSION

Currently the Fish and Game Commission spends 70 per cent of its time reviewing Department programs and approving administrative matters. The Commission, as a multi-member body meeting infrequently, is unable to do justice to the administration of the Department. Department operation requires day-to-day administrative leadership and decisions of an administrative head. A department as large as the Fish and Game Department should not be administered by a part-time body.

The Commission devotes the other 30 per cent of its time to quasi-judicial and quasi-legislative functions, primarily reviewing and revising annual and permanent regulations. The quasi-judicial and quasi-legislative functions should continue to be performed by a multi-member body.

MONTANA WATER RESOURCES BOARD

The Water Resources Board spends most of its time reviewing the administrative activities of the water resources staff. Again, these functions cannot be adequately performed by a multi-member board meeting infrequently; they should be the responsibility of a department administrator.

The Water Resources Board has many legitimate quasi-judicial and quasi-legislative functions, but very seldom exercises them. When and if these functions are performed, they should be performed by a multi-member body.

MONTANA STATE BOARD OF FORESTRY

The Montana State Board of Forestry spends almost all its time reviewing the activities of the office of the State Forester and giving routine approval to quasi-judicial and quasi-legislative activities either recommended or already performed by the State Forester. The administrative review function should be removed from the board, and all administrative activities should be handled by an administrator, for the reasons cited above. The quasi-judicial and quasi-legislative functions, while currently only being perfunctorily performed by the Board, should be performed by a multi-member board.

By the terms of the Montana Constitution, the State Board of Land Commissioners has the direction, control, leasing and sale of the school lands of the state, and lands granted for the support and benefit of the state educational institutions. This power includes state timberlands which are administered through the office of the State Forester. While the office of the State Forester properly belongs in the proposed Department of Natural Resources and Conservation, the office must continue to be directed by the State Board of Land Commissioners, due to the aforementioned provision of the Constitution.

STATE SOIL CONSERVATION COMMITTEE

Most of the activities (about 85 per cent) of the Soil Conservation Committee are concerned with administrative detail which properly should be performed by an administrative head, rather than by a multi-member body which meets very infrequently.

The quasi-legislative functions of the Committee have been deferred to the Executive Secretary, and are of such a nature that they should continue to be performed at the staff level.

The quasi-judicial functions of the Committee (representing less than 15 per cent of its activity), while in reality being performed by the hearings officers, should be the ultimate responsibility of a multi-member body.

MONTANA GRASS CONSERVATION COMMISSION

The Commission approves the day-to-day administrative activities of its staff, a function which properly belongs to an administrative head.

The quasi-judicial functions of the Commission (hearings involving the creation, dissolutions or modification of boundaries of State Grazing Districts) are currently performed by the Commission Secretary, but should in the future be made the ultimate responsibility of a multi-member body.

COUNCIL ON NATURAL RESOURCES AND DEVELOPMENT

The Council on Natural Resources and Development was established to provide for coordination among 16 state agencies concerned with natural resources and development. Under the proposed reorganization, with 20 departments or less, much of the need for coordination would be obviated,

particularly since the major agencies comprising the Council would be included in the proposed Department of Natural Resources and Conservation. For this reason, the Council should be abolished.

However, the scope of the natural resource field prohibits the inclusion of all natural resource programs and functions in a single department. As a result, special channels of communication must be established between the proposed Department of Natural Resources and Conservation and other agencies secondarily involved in natural resource activities. The best procedure by which to achieve the necessary coordination would be through a coordinating unit within the office of the Director of the proposed Department.

OIL AND GAS CONSERVATION COMMISSION

The Oil and Gas Conservation Commission is concerned with conserving Montana's oil and gas reserves and preventing waste. Although the Commission's function is to conserve natural resource (oil and gas) and prevent waste, the resource is totally different than surface resources such as water, grass, fish and game, and timber; and the Commission's duties are distinctly different. The Commission members must be informed on subjects such as geology, oil and gas law, and petroleum industry operations to establish well spacing units for oil and gas pools, pooling with spacing units and other technical orders and rules. The Legislature, in creating this Commission, recognized the fact that technical expertise was necessary to conserve Montana's oil and gas resources and specifically provided that the Commission must, in part, be composed of representatives from industry with at least three years experience in the production of oil and gas.

As specialized technical knowledge of petroleum geology, oil and gas rights, and petroleum industry operations is required to effectively conserve Montana's oil and gas reserves, the Oil and Gas Conservation Commission should be retained; it should, however, operate within the proposed Department of Natural Resources and Conservation.

ADVISORY COMMITTEE FOR PRESERVATION OF HISTORIC SITES

The Advisory Committee for Preservation of Historic Sites is required as a condition for the receipt of federal funds under the Federal Preservation of Historic Properties Act and should be retained.

OUTDOOR RECREATION ADVISORY AND PLANNING COMMITTEE

The Outdoor Recreation Advisory and Planning Committee has not met or performed any functions since 1968; its functions have been assumed by the Fish and Game Commission. The Committee should be abolished.

WEATHER MODIFICATION ADVISORY COMMITTEE

Neither the Secretary of State nor the Office of the Governor has a record of the existence of the Weather Modification Advisory Committee. The Committee should be abolished and recreated, if necessary, subject to standard procedures as to appointment, terms of existence, etc.

BUREAU OF MINES AND GEOLOGY

The Bureau of Mines and Geology was created as a research-oriented agency under the Board of Education. Its functions are closely connected to those of the Montana College of Mineral Science and Technology. For these reasons it should remain under the State Board of Education. However, the Bureau is engaged in regulatory functions as well. Specifically, it is responsible for the regulation of strip-coal mining activities. This function does not belong in a research, education agency and should be transferred to the proposed Department of Natural Resources.

P R O P O S A L

The staff recommends that there be created in the executive branch of state government a department to be known as the Department of Natural Resources and Conservation. More specifically, the staff recommends:

1. That the multi-member bodies known as the State Fish and Game Commission, the Montana Water Resources Board, the State Soil Conservation Committee, the Montana Grass Conservation Commission and the Montana State Board of Forestry be abolished. Further, it is suggested that the quasi-legislative and quasi-judicial powers of the aforementioned multi-member bodies enumerated in proposal number 5 be transferred to the proposed Board of Natural Resources and Conservation. The Commission staff wishes to emphasize that it is here proposing simply that the multi-member bodies themselves be abolished. The quasi-legislative and quasi-judicial functions currently performed by these bodies would continue to be performed as at present, but by the proposed Board of Natural Resources and Conservation. And, the administrative functions of the multi-member bodies would continue to be performed, but by the proposed Department of Natural Resources and Conservation as set out on proposal # 6. The Director of the proposed Department could appoint advisory councils in accordance with proposal # 11 to aid him in performing the duties transferred to the proposed Department of Natural Resources and Conservation.
2. That the Council on Natural Resources and Development and its administrative organization, the Outdoor Recreation Advisory and Planning Committee, and the Weather Modification Advisory Committee be abolished.
3. That the Oil and Gas Conservation Commission continue to carry out its statutory functions and that, for budgetary purposes only, the Oil and Gas Conservation Commission be incorporated within the administrative framework of the Department of Natural Resources and Conservation.
4. That, since the Advisory Committee for Preservation of Historic Sites is required by the federal government, the Committee be made to advise and assist the proposed Department of Natural Resources and Conservation in the same capacity in which the Committee currently advises and assists the State Fish and Game Commission.
5. That there be created within the proposed Department of Natural Resources and Conservation a five member Board of Natural Resources and Conservation composed of persons informed and experienced in the subject of natural resources and conservation, to be appointed by the Governor from the five geographical districts currently established for the appointment of State Fish and Game Commissioners (Section 26-102, R.C.M. 1947). It is suggested that the proposed Board of Natural Resources and Conservation perform the following functions:

a) the quasi-judicial and quasi-legislative functions the Fish and Game Commission is currently empowered to perform.

b) the quasi-judicial and quasi-legislative functions the Montana Water Resources Board is currently empowered to perform.

c) the quasi-judicial and quasi-legislative functions the Montana State Board of Forestry is currently empowered to perform.

d) the quasi-judicial and quasi-legislative functions the State Soil Conservation Committee is currently empowered to perform. It is suggested that hearings for the creation, dissolution, or modification of boundaries of Soil Conservation Districts be performed by the staff of the proposed Department of Natural Resources and Conservation, and that the proposed Board be responsible only for the final determination on creation, discontinuance, or modification of boundaries of Soil and Water Conservation Districts. In making the final determination the proposed Board should be supplied with the full hearings transcript and a hearings report prepared by the staff of the proposed Department of Natural Resources and Conservation.

e) the quasi-legislative and quasi-judicial functions the Montana Grass Conservation Commission is currently empowered to perform. It is suggested that hearings for the creation, dissolution, or modification of boundaries of State Grazing Districts be performed by the staff of the proposed Department of Natural Resources and Conservation, and that the proposed Board be responsible only for the final determination on creation, discontinuance, or modification of boundaries of State Grazing Districts. In making the final determination the proposed Board should be supplied with the full hearings transcript and a hearings report prepared by the staff of the proposed Department of Natural Resources and Conservation.

It is further suggested that the proposed Board of Natural Resources and Conservation be advisory to the proposed Department of Natural Resources and Conservation for all other Department activities.

6. That the powers and duties of the administrative units currently operating under the direction of the State Fish and Game Commission, the Montana Water Resources Board, the State Soil Conservation Committee, the Montana Grass Conservation Commission, and the Montana State Board of Forestry (State Forester) be transferred to the proposed Department of Natural Resources and Conservation. Further, it is suggested that the administrative units under the direction of the State Fish and Game Commission, the Montana Water Resources Board, and the Montana State Board of Forestry (State Forester) constitute separate and distinct divisions within the proposed Department of Natural Resources and Conservation and that the Director of the proposed Department attach the administrative units currently operating under the direction of the State Soil Conservation Committee and the Montana Grass Conservation Commission to the separate divisions of the proposed Department based upon sound administrative principles and logical functions.

7. That, as reported in report on Health and Environmental Sciences, the administration of the Dredge Mining Regulation Act, currently assigned to the Department of Health, be transferred to the proposed Department of Natural Resources and Conservation.

8. That the Bureau of Mines and Geology remain within the University System, but that all regulatory functions now assigned to the Bureau of Mines and Geology relating to strip coal mining regulation be transferred to the proposed Department of Natural Resources and Conservation. In the future, the Bureau of Mines and Geology should be assigned no regulatory functions, but should be limited to academic and research oriented functions.

9. That the State Board of Land Commissioners continue to retain the direction, control, leasing and sale of the state school lands and the lands granted for the support and benefit of the various state educational institutions in accordance with Article XI Section 4, of the Montana Constitution; and that any functions performed by the proposed Department of Natural Resources and Conservation relating to these lands, particularly the duties currently performed by the State Forester, be subject to the direction and control of the State Board of Land Commissioners.

10. As provided in the Report on Health and Environmental Sciences, it is suggested that the Director of the proposed Department of Natural Resources and Conservation give consideration to the possibility of employing an Information and Exchange Officer (s) to work within the proposed Department of Health and Environmental Sciences. It would be the duty of the Information Exchange Officer (s) to communicate to the proposed Department of Natural Resources and Conservation any environmental problems that might have a bearing on natural resources and conservation. It is further suggested that the proposed Department of Health and Environmental Sciences consider the possibility of employing similar personnel to work within the proposed Department of Natural Resources and Conservation. This proposal is made in view of the broad range of common environmental interests between the two proposed Departments.

11. That in the future all advisory councils be appointed by and at the discretion of the Director of the proposed Department of Natural Resources and Conservation to specified terms, subject to the approval of the Governor with respect to both the creation and membership of the Council. Further, that a certified letter of appointments to such councils be filed with the Governor and the Secretary of State, as a precondition to the effectiveness of the appointments. Also, it is suggested that there be a uniform limit to the number of years any advisory council may serve, with the provisions for re-appointment if deemed necessary by the Governor. Finally, it is suggested that all advisory councils be limited in function to information exchange, research and advice; and that no advisory council be allowed to assume the sponsorship or administration of programs.

12. That the proposed Department of Natural Resources and Conservation be headed by a Director, appointed by, responsible to and serving at the pleasure of the Governor, and further that the appointee be subject to the confirmation of the State Senate. It is further suggested that the Director of the Proposed Department of Natural Resources and Conservation be provided with a professional staff to coordinate the functions and activities of the proposed Department and to coordinate natural resource and conservation activities with other proposed state Departments, departments and agencies of the federal government, private individuals, and corporations. In effect, the proposed Department, acting under a Director with sufficient professional staff, would perform the functions now assigned to the Council on Natural Resources and Development.